

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

IN THE MATTER OF:

[REDACTED]

MAHS Reg. No.: 15-017555
Issue No.: ESO
Agency Case No.: [REDACTED]
Hearing Date: November 16, 2015
County: DHHS SSPC

ADMINISTRATIVE LAW JUDGE: Eric Feldman

HEARING DECISION

Pursuant to a September 8, 2014 federal lawsuit, the Department of Health and Human Services (Department) issued notices to Medicaid applicants who were potentially denied full Medicaid coverage based on immigration status between January 2014 and May 2015. The notice included information about how to request a hearing. Petitioner filed a request for a hearing and accordingly this matter is before the undersigned Administrative Law Judge pursuant to Michigan Administrative Hearing Rules (R 792.10101 – R 792.11903) and the Administrative Procedures Act, 1969 PA 306, as amended, MCL 24.201 *et seq.*

After due notice, a three-way telephone hearing was held on November 16, 2015, from Detroit, Michigan. The Petitioner was represented by [REDACTED] (Petitioner). The Department was represented by [REDACTED], Eligibility Specialist.

ISSUES

Did the Department properly determine Petitioner's immigration status or citizenship when determining Medicaid (MA) eligibility?

Whether the Michigan Department of Health and Human Services denied Petitioner's full MA coverage between January 2014 and May 2015, in accordance with federal and state laws and policies?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On [REDACTED], Petitioner applied for MA benefits. See Exhibit A, pp. 5-12.
2. On the date of MA application, Petitioner indicated she was a United States citizen. See Exhibit A, p. 7.

3. On [REDACTED], the Department testified that it requested verification of Petitioner's citizenship. The Department testified the verifications were due back by [REDACTED].
4. The Department indicated that Petitioner failed to submit verification of her citizenship. However, Petitioner argued that she timely submitted verification of her citizenship.
5. On [REDACTED], the Department sent Petitioner a Health Care Coverage Determination Notice (determination notice) notifying her that she was approved for Emergency Services Only (ESO) MA for [REDACTED]. See Exhibit A, pp. 16-19.
6. On [REDACTED], the determination notice also notified Petitioner that she was found not eligible for MA coverage effective [REDACTED], based on her failure to verify her citizenship. See Exhibit A, pp. 16-19.
7. On an unspecified date, the Department issued a notice to the Petitioner indicating she might have been denied full MA coverage based on immigration status between January 2014 and May 2015.
8. On [REDACTED], Petitioner requested a hearing. See Exhibit A, p. 2.
9. On [REDACTED], the Department sent Petitioner a Benefit Notice notifying her she was converted to full MA coverage for January of 2015. See Exhibit A, pp. 20-22.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), Department of Health and Human Services Modified Adjusted Gross Income (MAGI) Related Eligibility Manual (MREM), and Department of Health and Human Services Emergency Relief Manual (ERM).

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Preliminary matters

First, on [REDACTED], the Michigan Administrative Hearing System (MAHS) duly served notice of the above-captioned matter to Petitioner at: [REDACTED], [REDACTED], informing her of a hearing scheduled on Monday, November 16, 2015, at

10:00 a.m. Petitioner indicated that she never received this notice. However, Petitioner testified that this was her proper address at the time the notice was sent. MAHS did not receive any returned mail from the United States Postal Service (USPS).

The proper mailing and addressing of a letter creates a presumption of receipt which may be rebutted by evidence. *Stacey v Sankovich*, 19 Mich App 638 (1969); *Good v Detroit Automobile Inter-Insurance Exchange*, 67 Mich App 270 (1976).

Based on the foregoing information and evidence, it is found that Petitioner failed to rebut the presumption of proper mailing. The evidence established that MAHS sent the Notice of Hearing to Petitioner's proper address in October of 2015. As such, the hearing proceeded accordingly.

Second, the undersigned will address Petitioner's MA denial effective [REDACTED], which was based on a failure to provide verification of her citizenship. The issue confronted in this case is to determine whether the Michigan Department of Health and Human Services denied Petitioner's full MA coverage between January 2014 and May 2015, in accordance with federal and state laws and policies. Petitioner was denied full MA coverage between this time period, thus, giving the undersigned jurisdiction to address the denial.

MA eligibility

In this case, Petitioner requested a hearing disputing the denial of full MA coverage for herself from [REDACTED], ongoing. See Exhibit A, p. 2.

To be eligible for full coverage MA, a person must be a U.S. citizen or an alien admitted to the U.S. under a specific immigration status. BEM 225 (October 2014), p. 2. U.S. citizenship must be verified with an acceptable document to continue to receive Medicaid. BEM 225, p. 2. A person claiming U.S. citizenship is not eligible for ESO coverage. BEM 225, p. 2. The alien status of each non-citizen must be verified to be eligible for full MA coverage. BEM 225, p. 2.

For the period of [REDACTED], the Department initially approved Petitioner for only ESO coverage. See Exhibit A, pp. 16-19 (determination notice dated [REDACTED]). But, it was discovered that the Department conducted subsequent actions, which resulted in Petitioner receiving full MA coverage (Healthy Michigan Plan) for the period of [REDACTED]. See Exhibit A, pp. 13-14 and 20-21 (Petitioner's Medicaid Summary and Benefit Notice dated [REDACTED]). The Department testified that Petitioner was eligible for full MA coverage for this month because it was verified that she meets the citizenship requirements. See Exhibit A, p. 1 (Hearing Summary). Even though the Department conducted subsequent actions in this case, the undersigned finds that the Department properly determined Petitioner's immigration status or citizenship when determining her MA eligibility for [REDACTED].

Nevertheless, the undersigned finds that the Department improperly denied Petitioner's full MA coverage effective [REDACTED], the Department sent Petitioner a determination notice notifying her that she was not eligible for MA coverage effective February 1, 2015, based on her failure to verify her citizenship. See Exhibit A, pp. 16-19.

On [REDACTED], the Department testified that it requested verification of Petitioner's citizenship. The Department testified the verifications were due back by [REDACTED]. The Department testified that Petitioner failed to submit verification of her citizenship. However, Petitioner argued that she timely submitted verification of her citizenship. Petitioner testified that she submitted verification of her birth certificate.

U.S. citizenship must be verified with an acceptable document to continue to receive Medicaid (see BAM 130). BEM 225, pp. 2 and 19.

When an applicant for Medicaid claims to be a U.S. citizen or to have qualified immigrant status, and all other eligibility factors are met, certify benefits. BAM 130 (October 2014), p. 4. Once the case has been open and coverage entered in the Department's system (Bridges), verification of citizenship must be completed. BAM 130, p. 4.

The Department attempts to verify citizenship through a data match such as the Social Security Administration or a Department of Community Health (DCH) vital records match. BAM 130, p. 4. Modified Adjusted Gross Income (MAGI)-related applicants will have citizenship and identity verified if the application comes to the Department of Human Services (DHS) (DCH and DHS is now referred to as the "Michigan Department of Health and Human Services" (MDHHS)) via the Federally Facilitated Marketplace (FFM) or MAGI rules engine. BAM 130, p. 4. If there is a discrepancy with the information or it is not available then contact with the beneficiary is necessary. BAM 130, p. 4.

Allow the beneficiary 90 days to provide the required verifications. BAM 130, p. 4. The Department uses the DHS-3503, Verification Checklist (VCL), to request verification. BAM 130, p. 3. If no documentation is provided at the end of the 90 days, the beneficiary should be disenrolled from Medicaid within 30 days. BAM 130, p. 4.

Beneficiaries must be notified of the pending closure and the reason for the closure. BAM 130, p. 4. If documentation is received prior to the closure date the coverage must continue. BAM 130, p. 4.

There is an obvious dispute between both parties as to whether Petitioner's verification of citizenship was submitted. However, the undersigned does not need to determine whether Petitioner complied with the verification requirements. Petitioner clearly claims to be a U.S. citizen when she applied for benefits on [REDACTED]. See Exhibit A, p. 7. Policy further states to allow Petitioner 90 days to provide the required verifications. BAM 130, p. 4. However, the Department only provided Petitioner with

approximately 10-days to submit her verification of citizenship. Because the Department failed to provide Petitioner with sufficient time to provide verification of her citizenship, the Department improperly denied Petitioner's full MA coverage effective [REDACTED], ongoing, in accordance with federal and state laws and policies. See BAM 130, p. 4 and BEM 225, pp. 2 and 19.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that (i) the Department properly determined Petitioner's immigration status or citizenship when determining her MA eligibility for [REDACTED]; and (ii) the Department improperly denied Petitioner's full MA coverage effective [REDACTED], ongoing, in accordance with federal and state laws and policies.

DECISION AND ORDER

Accordingly, the Department's determination about MA eligibility based on immigration status is **AFFIRMED IN PART** with respect to January 2015 and **REVERSED IN PART** with respect to [REDACTED], ongoing.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Redetermine MA eligibility effective [REDACTED], in accordance with Department policy.
2. Notify Petitioner in writing of the Department's new MA eligibility determination.



Eric Feldman
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: 11/17/2015
Date Mailed: 11/17/2015

EF / hw

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

cc:

