



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

MIKE ZIMMER
DIRECTOR

[REDACTED]

Date Mailed: March 31, 2016
MAHS Docket No.: 15-022014
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 4-way telephone hearing was held on March 3, 2016, from Detroit, Michigan. The Petitioner was represented by the Petitioner, [REDACTED]. The Department was represented by [REDACTED], Eligibility Specialist. [REDACTED] served as translator during the hearing.

ISSUE

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

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 March 21, 2014, Petitioner applied for Medical Assistance (MA).
2. On the date of MA application, Petitioner was not a United States (U.S.) citizen.

3. At the hearing, the Petitioner verified that she had permanent residence status, as of [REDACTED]. On her application for MA, she answered yes to lawful presence. Exhibit 1, p.19.
4. At no time after the filing of the application did the Department seek verification of lawful permanent residence or seek the Petitioner's green card.
5. At the hearing, the Petitioner established lawful residence in the U.S. since [REDACTED].
6. The Department Issued a Health Care Coverage Determination Notice dated April 28, 2014, finding the Petitioner eligible for ESO MA. Exhibit 2.
7. On November 18, 2015, the Department issued a Benefit Notice finding the Petitioner eligible for full MA from January 2014 ongoing through November 2015. The Department did not provide full MA after November 2015, which was in error. Exhibit 3.
8. The Petitioner requested a hearing on September 4, 2015, protesting the Department's actions.

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.

In this case, Petitioner requested a hearing disputing the **determination of the Department's Health Care Notice of April 28, 2014, finding her eligible for ESO only. Exhibit 2.** Thereafter, on November 18, 2015, the Department issued a Benefit Notice finding the Petitioner eligible for full MA from January 2014 ongoing through November 2015. The Department did not provide full MA after November 2015, which was in error; because as of November 25, 2015, the Petitioner had been a Permanent Resident since [REDACTED]. The Full MA coverage should have been ongoing.

To be eligible for full MA coverage a person must be a U.S. citizen or an alien admitted to the U.S. under a specific immigration status. BEM 225 (January 2014), p. 2. The Petitioner testified that she is not a U.S. citizen and has been a permanent resident since [REDACTED]. At the time of application or redetermination, Petitioner or Petitioner's family member status was a permanent resident. Exhibit 1.

An individual who is a permanent resident alien with a class code on the permanent residency card other than RE, AM or AS is eligible only for ESO MA coverage for the first five years in the U.S. unless the alien is a qualified military alien or the spouse or dependent child of a qualified military alien. BEM 225, pp. 7-8, 30; MREM, § 3.6. A qualified military alien is a qualified alien on active duty in, or veteran honorably discharged from, the U.S. Armed Forces. BEM 225, p. 5; MREM, § 3.6. The alien status of each non-citizen must be verified to be eligible for full MA coverage. BEM 225, p. 2.

In this case, the Department was required to verify Petitioner's immigration status and never did so; and thus, it had no basis for ending the full MA coverage or granting coverage only through November 2015 without verifying immigration status.

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 the Department **did not** properly determine Petitioner's immigration status or citizenship on and after November 2015 when determining MA eligibility.

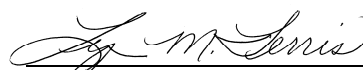
DECISION AND ORDER

Accordingly, the Department's determination about MA eligibility based on immigration status is **REVERSED**.

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 in accordance with Department policy for November 2015 ongoing based upon permanent residency of Petitioner since [REDACTED].
2. Notify Petitioner in writing of the Department's new MA eligibility determination.

LMF/jaf



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

[REDACTED]

Petitioner

[REDACTED]

cc:

[REDACTED]