

**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.: 15-016929
Issue No.: ESO
Agency Case No.: [REDACTED]
Hearing Date: January 25, 2016
County: DHHS SSPC OFFICE

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 January 25, 2016, from Detroit, Michigan. The Petitioner was represented by the Petitioner [REDACTED]. An interpreter, [REDACTED], appeared and interpreted [REDACTED] for the Petitioner. The Department was represented by [REDACTED], Eligibility Specialist.

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 24, 2014, Petitioner applied for MA or had a redetermination of current MA benefits.
2. On the date of MA application or redetermination, Petitioner was not a United States citizen. The Petitioner did have Permanent Resident status beginning May 12, 2011, and had not resided in the U.S. for five years.

3. Beginning April 2014, Petitioner's **application** was **approved** for Emergency Healthy Michigan Plan through May 2015. The Department initially erred when it provided Healthy Michigan during the period April 2014 through May 2015.
4. Beginning May 2015, the Department placed the Petitioner on Emergency Services Only (ESO) MA based upon his permanent resident status. Exhibit 1.
5. On an unknown date, the Department issued a notice to the Petitioner indicating he might have been denied full MA coverage based on immigration status between January 2014 and May 2015.
6. On August 28, 2015, the Petitioner requested a hearing.

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 **conversion to ESO MA and denial** of full MA coverage. The Department incorrectly provided the Petitioner full MA coverage (Healthy Michigan Plan) after the application even though Petitioner was not eligible for the Healthy Michigan Plan.

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 he is not a U.S. citizen and has been a permanent resident since May 12, 2011. 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.

A person who does not meet an acceptable alien status, including undocumented aliens and non-immigrants who have stayed beyond the period authorized by the U.S. Citizenship and Immigration Services, are eligible only for ESO MA coverage. BEM 225, p. 9. The alien status of each non-citizen must be verified to be eligible for full MA coverage. BEM 225, p. 2. Non-citizens receiving ESO MA do not have to verify alien status. BEM 225, p. 20. A person who is unable to obtain verification of alien status or refuses to cooperate in obtaining it is limited to ESO until verification is obtained. BEM 225, p. 20.

In this case, the Department testified that because Petitioner indicated in his application that he did have eligible immigration status, it approved him for the Healthy Michigan Plan, which was Department error. There was evidence presented that on May 1, 2015, his coverage had been changed to ESO on going. Petitioner's testimony at the hearing established that he did not have eligible alien status. Accordingly, he was eligible for ESO coverage only. At the time of the Application for MA, the Petitioner had not been a permanent resident alien for five years. Exhibits 1 and 2.

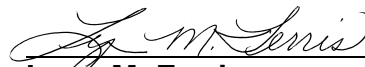
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did properly determine Petitioner's immigration status or citizenship when determining MA eligibility. As stated at the hearing, the Petitioner may apply in May 2016 for full coverage once he has completed five years as a resident alien.

DECISION AND ORDER

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

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.
2. Notify Petitioner in writing of the Department's new MA eligibility determination.



Lynn M. Ferris

Administrative Law Judge
for Nick Lyon, Director

Department of Health and Human Services

Date Mailed: **1/26/2016**

LMF/jaf

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

cc:

