



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 8, 2016  
MAHS Docket No.: 15-017388  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Eric Feldman**

**HEARING DECISION**

Pursuant to a [REDACTED], 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 [REDACTED], from Detroit, Michigan. The Petitioner, [REDACTED], was represented by the Authorized Hearing Representative (AHR), [REDACTED]. 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 [REDACTED], Petitioner had a redetermination of current MA benefits. See Exhibit A, pp. 6-9.
2. On the date of redetermination, Petitioner was not a United States citizen, but, she was eligible for full coverage MA because she had been a permanent resident

alien for five or more years. See Exhibit A, p. 3-4 (Petitioner's permanent resident card).

3. On [REDACTED], the Department sent Petitioner a Notice of Case Action notifying her that she was approved for only Emergency Services Only (ESO) MA coverage effective [REDACTED], ongoing. See Exhibit A, pp. 13-15.
4. On [REDACTED], Petitioner's AHR requested a hearing. See Exhibit A, p. 2.
5. On [REDACTED], the Department sent Petitioner a Benefit Notice notifying her that she was eligible for full MA coverage from [REDACTED], ongoing. See Exhibit A, pp. 16-17.

### **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.

#### **ESO coverage**

In this case, Petitioner's AHR requested a hearing disputing the MA coverage. See Exhibit A, p. 2. It should also be noted that the undersigned's jurisdiction is only to review whether the Department denied Petitioner's full MA coverage between January 2014 to May 2015, in accordance with federal and state laws and policies.

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 (January 2014; July 2014; October 2014; and October 2015), p. 2. 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.

In the present case, Petitioner is eligible for full coverage MA because she had been a permanent resident alien for five or more years. See Exhibit A, p. 3-4 (Petitioner's permanent resident card indicating residence since December 10, 2000) and BEM 225, pp. 7-8, 30; MREM, § 3.6.

At one point, Petitioner received only ESO MA coverage; however, Petitioner's ESO MA coverage was converted to full MA coverage for December 2014 to May 2015. See Exhibit A, pp. 10-11. However, though, the evidence was unclear if Petitioner received full MA coverage from January 2014 to November 2014. See Exhibit A, pp. 11-12. One of the sections of the Petitioner's Medicaid Eligibility for the period of January 2014 to November 2014 indicated that she was an "Alien limited to emergency medical coverage." See Exhibit A, pp. 11-12. The undersigned finds this section to be improper as Petitioner was eligible for full MA coverage.

Based on the foregoing information and evidence, along with both parties' testimony, the Department properly determined Petitioner's immigration status when determining MA eligibility, except for January 2014 to November 2014. Yes, the Department initially approved Petitioner for only ESO coverage. However, the Department updated all benefit periods that previously had ESO coverage and provided Petitioner with full MA coverage from December 2014 to May 2015. See Exhibit A, pp. 1 and 10-11. As such, the Department properly determined that Petitioner was eligible for full-coverage MA for December 2014 to May 2015.

As to the period of January 2014 to November 2014, the evidence was unclear if Petitioner received full coverage MA. See Exhibit A, pp. 11-12. As such, the Department will redetermine Petitioner's MA eligibility for January 2014 to November 2014.

It should be noted that Petitioner's AHR disputed a MA bill for August 2015; however, this falls outside the undersigned's jurisdiction, which is January 2014 to May 2015. However, it should also be noted that Petitioner's Medicaid Eligibility indicated full MA coverage for August 2015. See Exhibit A, p. 11.

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 (i) did not properly determine Petitioner's immigration status or citizenship when determining MA eligibility for January 2014 to November 2014; and (ii) did properly determine Petitioner's immigration status or citizenship when determining MA eligibility for December 2014 to May 2015.


### **DECISION AND ORDER**

Accordingly, the Department's determination about MA eligibility based on immigration status is **AFFIRMED IN PART** with respect to Petitioner's eligibility from December 2014 to May 2015, and **REVERSED IN PART** with respect to Petitioner's eligibility from January 2014 to November 2014.

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 from January 2014 to November 2014 in accordance with Department policy.
2. Notify Petitioner in writing of the Department's new MA eligibility determination.

EF/hw



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**Eric Feldman**  
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]

**Authorized Hearing Rep.**

[REDACTED]

**Petitioner**

[REDACTED]