

**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.: 15-017597
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 four-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. [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. Petitioner is an ongoing recipient of MA benefits. See Exhibit A, pp. 12-13.
2. Petitioner indicated that she was granted asylum under Section 208 of the Immigration and Nationality Act (INA).

3. Petitioner's permanent resident card indicates the following: (i) U.S. residence since November 24, 2013; country of birth is Iraq; and her card shows an AS6 category. Exhibit B, p. 1.
4. Effective [REDACTED], ongoing, Petitioner's full-coverage MA case converted to Emergency Services Only (ESO) MA coverage based on a redetermination. See Exhibit A, pp. 12-13.
5. On [REDACTED], Petitioner applied for MA benefits. See Exhibit A, pp. 4-11.
6. On the date of MA application, Petitioner was not a United States citizen. See Exhibit A, p. 7. However, Petitioner indicated she was part of the Office of Refugee Resettlement (ORR). See Exhibit A, p. 8.
7. On [REDACTED], the Department sent Petitioner a Health Care Coverage Determination Notice (determination notice) notifying her that she was approved for ESO MA for [REDACTED], ongoing. See Exhibit A, pp. 19-21.
8. On [REDACTED], 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. See Exhibit A, p. 24.
9. On [REDACTED], Petitioner requested a hearing. See Exhibit A, p. 23.

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 matter

Petitioner testified that she never received the Hearing Summary packet. However, the evidence established that the Department sent Petitioner the Hearing Summary packet on [REDACTED]. See Exhibit A, p. 3.

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 the Department properly sent Petitioner the Hearing Summary packet in September of 2015. Moreover, Petitioner acknowledged that the packet could be admitted as Department's Exhibit A for the record.

ESO coverage

In this case, Petitioner requested a hearing disputing the conversion of full MA to ESO MA coverage effective [REDACTED], ongoing. See Exhibit A, p. 23.

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 and October 2014), p. 2. Persons listed under the program designations in Acceptable Status meet the requirement of citizenship/alien status. BEM 225, p. 3. Eligibility may depend on whether or not the person meets the definition of Qualified Alien. BEM 225, p. 3.

The definition of qualified alien includes specific alien statuses, but not all alien statuses. BEM 225, p. 3. This definition is used in several of the acceptable alien statuses, in conjunction with other criteria. BEM 225, p. 3. Not all acceptable alien statuses require that the person be a qualified alien. BEM 225, p. 3. Qualified alien means an alien who is, for example, granted asylum under Section 208 of the INA, or lawfully admitted for permanent residence under the INA, etc... See BEM 225, pp. 3-4.

Regarding acceptable status, an individual who is a permanent resident alien with class code RE, AS, SI or SQ on the I-551 (former refugee or asylee) or was a refugee admitted under INA Section 207, etc...is eligible for full MA coverage. See BEM 225, pp. 4-7.

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.

At time of redetermination and application, Petitioner indicated that she was granted asylum under Section 208 of the INA. Such status would make Petitioner eligible for full MA coverage. See BEM 225, pp. 1-7. In fact, a review of Petitioner's permanent resident card indicates an AS6 category, which also makes Petitioner eligible for full MA coverage. Exhibit B, p. 1 and BEM 225, pp. 6-7. Because at the time of Petitioner's redetermination and application she was granted asylum under Section 208 of the INA and her permanent residency card had a class code of AS on the I-551, she was eligible for full-coverage MA. See BEM 225, pp. 6-7.

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



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

Date Signed: 11/16/2015

Date Mailed: 11/16/2015

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:

