

**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.: 15-019014
Issue No.: ESO
Agency Case No.: [REDACTED]
Hearing Date: February 16, 2016
County: DHHS SPECIAL
PROCESSING OFFICE

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 February 16, 2016, from Detroit, Michigan. The Petitioner 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 applied for MA benefits. See Exhibit A, pp. 4-10.
2. On the date of MA application, Petitioner was a permanent resident alien who had resided in the U.S. for five or more years.

3. On an unspecified date, Petitioner received only Emergency Services Only (ESO) MA coverage; however, Petitioner's ESO MA coverage was converted to full MA coverage for September 2014 to September 2015. See Exhibit A, pp. 11-12.
4. The evidence was unclear if Petitioner received full MA coverage for July 2014 to August 2014. See Exhibit A, p. 12.
5. On [REDACTED], Petitioner's AHR requested a hearing. See Exhibit A, p. 2.
6. On [REDACTED], the Department sent Petitioner a Benefit Notice notifying her that she is eligible for full coverage from September 2014 to September 2015. See Exhibit A, pp. 13-14.

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's AHR requested a hearing disputing her 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, it was not disputed that Petitioner is eligible for full coverage MA because she had been a permanent resident alien who had resided in the U.S. for five or more years.

On an unspecified date, Petitioner received only ESO MA coverage; however, Petitioner's ESO MA coverage was converted to full MA coverage for September 2014 to September 2015. See Exhibit A, pp. 11-12. However, though, the evidence was unclear if Petitioner received full MA coverage for July 2014 to August 2014. See Exhibit A, p. 12. One of the sections of the Petitioner's Medicaid Eligibility for the period of July 2014 to August 2014 indicated that she was an "Alien limited to emergency medical coverage." See Exhibit A, p. 12. The undersigned finds this section to be improper as Petitioner is 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 July 2014 to August 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 September 2014 to September 2015. See Exhibit A, pp. 1 and 11-12. As such, the Department properly determined that Petitioner was eligible for full-coverage MA for September 2014 to September 2015. As to the period of July 2014 to August 2014, the Department will redetermine Petitioner's MA eligibility. See Exhibit A, p. 12.

It should be noted that it was discovered that Petitioner did not receive MA coverage from October 1, 2015, ongoing. As stated above, the undersigned's jurisdiction is to review whether the Department denied Petitioner's full MA coverage between January 2014 to May 2015. However, Petitioner's MA closure falls outside this time period in which the undersigned is able to review. Therefore, the undersigned will not address Petitioner's MA closure effective [REDACTED].

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 July 2014 to August 2014; and (ii) did properly determine Petitioner's immigration status or citizenship when determining MA eligibility for September 2014 to September 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 September

2014 to September 2015, and **REVERSED IN PART** with respect to Petitioner's eligibility from July 2014 to August 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 July 2014 to August 2014 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: **FEBRUARY 19, 2016**

Date Mailed: **FEBRUARY 19, 2016**

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:

