

**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.: 15-015608; 15-018081;
15-019089
Issue No.: ESO
Agency Case No.: [REDACTED]
Hearing Date: November 9, 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 telephone hearing was held on November 9, 2015, from Detroit, Michigan. Petitioners, [REDACTED]; his spouse, [REDACTED]; and their child, [REDACTED], were represented by [REDACTED]. The Department was represented by [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly determine Petitioner's, his spouse's, and their daughter'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 on behalf of his spouse, their daughter, and himself. See Petitioner's Exhibit A, pp. 4-14.
2. In the application, Petitioner indicated that no one in the household is a U.S. citizen. See Petitioner's Exhibit A, pp. 4-14.

3. Petitioner indicated that all three household members resided in the U.S. since [REDACTED].
4. On [REDACTED], the Department sent Petitioner a Health Care Coverage Determination Notice (determination notice) notifying him that him/his spouse were approved for ESO MA for [REDACTED], ongoing. See Petitioner's Exhibit A, pp. 17-19. The determination notice also notified Petitioner that his daughter was approved for ESO MA for [REDACTED], ongoing. See Petitioner's Exhibit A, pp. 17-19.
5. On [REDACTED], 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. See Petitioner's Exhibit A, p. 20 and Petitioner's daughter Exhibit A, p. 28.
6. On [REDACTED], Petitioner requested a hearing on behalf of himself and his daughter. See Petitioner's Exhibit A, p. 2 and Petitioner's daughter Exhibit A, p. 2.
7. On [REDACTED], Petitioner's spouse requested a hearing. See Petitioner's spouse Exhibit A, p. 2.

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

On [REDACTED], the Michigan Administrative Hearing System (MAHS) sent three Notice of Hearings to Petitioner, his spouse, and their child, notifying them of a hearing scheduled on [REDACTED].

On [REDACTED], Petitioner, [REDACTED], was present for all three hearings on behalf of himself (hereinafter referred to as "Petitioner"); his spouse, [REDACTED]

(hereinafter referred to as “Petitioner’s spouse”); and their daughter, [REDACTED] (hereinafter referred to as “Petitioner’s daughter”).

The undersigned consolidated all three hearings scheduled into one administrative hearing. As a result, the undersigned issued this one hearing decision to address all three Registration Numbers (case number is the same for all three household members): 15-015608 – [REDACTED]; 15-019089 – [REDACTED]; and 15-018081 – [REDACTED].

Additionally, the Exhibits admitted into the record will be referred to as: Petitioner’s Exhibit A; Petitioner’s spouse Exhibit A; or Petitioner’s daughter Exhibit A.

ESO coverage

In this case, Petitioner/Petitioner’s spouse requested a hearing disputing the denial of full MA coverage for himself/spouse from [REDACTED], ongoing, and his daughter from [REDACTED], ongoing. See Petitioner’s Exhibit A, p. 2; Petitioner’s daughter Exhibit A, p. 2; and Petitioner’s spouse Exhibit A, p. 2.

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 (October 2014), 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 this case, Petitioner testified that all three household members entered the U.S. on [REDACTED] and indicated no one was a qualified military alien. The evidence record did not contain Petitioner’s nor his spouse’s permanent resident card. However, Petitioner testified that his card showed a F32 category. The evidence record did present the daughter’s card, which showed U.S. residency since [REDACTED], and a F33 category. See Petitioner’s daughter Exhibit A, pp. 21-22. Petitioner testified that all three household members were originally from [REDACTED] and they did not enter the U.S. based on asylum or refugee status.

At the hearing, the Department testified that it provided all three household members with full MA coverage due to Department error. The Department testified that subsequent to Petitioner’s application, the Department failed to request verification of all

three household member's citizenship in accordance with Department policy. See BAM 130 (October 2014), pp. 4-5 (Citizenship Verification for Medicaid). As such, the Department testified that it provided full MA coverage for Petitioner's spouse and daughter from [REDACTED], and Petitioner from [REDACTED], ongoing. The Department provided all three household members Medicaid Eligibility's documents; however, only Petitioner's spouse showed full MA coverage from [REDACTED]. See Petitioner's spouse Exhibit A, pp. 16-17. It appears the Petitioner's and Petitioner's daughter's Medicaid Eligibility documents were printed before the Department converted them to full MA coverage. See Petitioner's Exhibit A, pp. 15-16 and Petitioner's daughter Exhibit A, pp. 16-18. It also appears Petitioner's daughter received full MA coverage from [REDACTED] despite the determination notice notifying the child is only eligible for ESO coverage. See Petitioner's daughter Exhibit A, pp. 16-18 and 25-26.

Nevertheless, despite the Department's testimony that it converted all three household member's to full MA coverage because of its failure to request verification of citizenship, the issue before the undersigned is whether the Department properly determined all three household members immigration status or citizenship when determining MA eligibility.

Based on the foregoing information and evidence, along with both parties' testimony, the Department properly determined all three household members' immigration status when determining MA eligibility. At the time of Petitioner's application dated [REDACTED], all three household members were not permanent resident aliens for five or more years, they did not have eligible class codes, and they were not qualified military aliens. As such, the Department properly determined at the time all three household members were not eligible for full-coverage MA.

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 properly determined Petitioner's/his spouse's/their daughter's immigration status when determining MA eligibility.

DECISION AND ORDER

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



Eric Feldman

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:

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