

**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.: 15-019341
Issue No.: ESO
Agency Case No.: [REDACTED]
Hearing Date: December 09, 2015
County: DHHS Special
Processing Office

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 December 9, 2015, from Detroit, Michigan. [REDACTED], Petitioner's son and authorized hearing representative (AHR), participated via 3-way telephone conference and represented Petitioner. The Department was represented by [REDACTED], Assistance Payment Worker.

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 (Exhibit A, pp. 5-17).
2. On the application, Petitioner did not attest to being a United States citizen or having eligible immigration status (Exhibit A, p. 7).

3. On [REDACTED], the Department sent Petitioner a Health Care Coverage Determination Notice notifying him that he was eligible for Emergency Services Only (ESO) MA coverage from [REDACTED] ongoing (Exhibit A, pp. 23-26).
4. 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.
5. On [REDACTED], 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 Department granting him ESO MA rather than full-coverage MA. 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), 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, the Department testified that based on information it received from the federal government, on [REDACTED] it updated Petitioner's MA case to activate full-coverage MA for him for [REDACTED] ongoing. The Department provided a

Medicaid eligibility summary showing that Petitioner was receiving ongoing, uninterrupted full-coverage MA beginning [REDACTED] (Exhibit A, pp. 18-20). Therefore, the only issue remaining was whether Petitioner was eligible for full coverage MA from [REDACTED] to [REDACTED].

The Department testified that it approved Petitioner for ESO MA effective [REDACTED] because he indicated in his application that he was not a U.S. citizen and he did not indicate that he had eligible immigration status. Because Petitioner failed to identify his alien status, the Department acted in accordance with Department policy when it approved him for ESO coverage. The Medicaid eligibility summary shows that Petitioner had received full-coverage MA in 2011. However, the AHR's testimony established that, at the time of his April 2014 application, Petitioner had not been a resident alien for 5 years, had not served in the U.S. military, and did not have asylum or refugee status. Therefore, he was 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 immigration status or citizenship when determining MA eligibility.

DECISION AND ORDER

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



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

Date Signed:
Date Mailed:

ACE / ttf

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:

