

**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.: 15-020244
Issue No.: ESO
Agency Case No.: [REDACTED]
Hearing Date: December 17, 2015
County: DHHS SSPC OFFICE

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 4-way telephone hearing was held on December 17, 2015, from Detroit, Michigan. The Petitioner was represented by the Petitioner [REDACTED]. An interpreter, [REDACTED], also appeared as the Spanish interpreter for the hearing. The Department of Health and Human Services (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 November 20, 2015, Petitioner applied for MA or had a redetermination of current MA benefits.
2. On the date of MA application or redetermination, Petitioner was not a United States citizen.

3. On the application, the Petitioner listed himself and his two children as non U.S. citizens, did not provide a date of entry or any information regarding alien status or any alien registration numbers. Exhibit 3.
4. Beginning November 1, 2014, ongoing, Petitioner's **full-coverage MA case and/or application** was **approved** for Emergency Services Only (ESO) MA coverage. Exhibit 1.
5. On September 9, 2015, 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.
6. On August 25, 2015, 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 his eligibility for ESO **MA and denial** of full MA coverage. To be eligible for full MA coverage 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.

Petitioner testified confirmed that on his application for MA, he did not indicate that he was a permanent resident, gave no Alien Status designation and no Alien Status registration number for himself or his two sons. At time of application or redetermination, Petitioner or Petitioner's family member status was Non U.S. citizen and no alien registration numbers were given.

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.

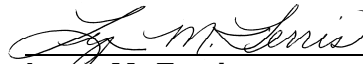
BEM 225, p. 9. The alien status of each non-citizen must be verified to be eligible for full MA coverage. BEM 225, p. 2. Non-citizens receiving ESO MA do not have to verify alien status. BEM 225, p. 20. A person who is unable to obtain verification of alien status or refuses to cooperate in obtaining it is limited to ESO until verification is obtained. BEM 225, p. 20.

In this case, the Department testified that because Petitioner indicated on his application that he did not have eligible immigration status, it approved him for ESO coverage. The Department did not seek verification of Petitioner's status as none was listed on the application, and he indicated that he was not a U.S. citizen. Petitioner's testimony at the hearing established that he did not have eligible alien status or a green card. Accordingly, he was eligible for only ESO coverage. At the hearing, the Petitioner presented an employment authorization card, which was not presented to the Department at the time of the application or indicated on application. Exhibit 5. This card does not provide alien status as required by BEM 225. Thus, even though the Department should have sought verification, the outcome would have been the same as the Petitioner does not have alien status.

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 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 **AFFIRMED**.



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Mailed: **12/17/2015**

LMF/jaf

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:

