

**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.: 15-020396
Issue No.: ESO
Agency Case No.: [REDACTED]
Hearing Date: January 27, 2016
County: DHHS Special
Processing Office

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 January 27, 2016¹, from Lansing, Michigan. The Petitioner was represented by [REDACTED], Daughter. 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 June 9, 2014, Petitioner applied for MA. (Department Exhibit A, pp. 4-15)
2. On the June 9, 2014, MA application, it was marked that Petitioner was not a United States citizen or national but did have eligible immigration status. (Department Exhibit A, p. 6)

¹ The Petitioner's case was held in conjunction with 15-021180. The Petitioners in both cases are spouses and the appeals involved the same case action.

3. Petitioner's application was initially approved for Emergency Services Only (ESO) MA coverage. (Department Exhibit A, pp. 18-20)
4. Petitioner has been a Permanent Resident of the United States since December 5, 2011. (Department Exhibit A, pp. 16-17 and Daughter Testimony)
5. On August 31, 2015, Petitioner filed a hearing request contesting the Department's determination. (Department Exhibit A, p. 2)
6. The Department subsequently approved full MA coverage for June 2014 through June 2015 as a verification period. (Department Exhibit A, pp. 1 and 16-17; Eligibility Specialist Testimony)
7. On November 19, 2015, a Health Care Coverage Determination Notice was issued to Petitioner stating she was eligible for full Medicaid coverage from July 2014 through June 2015. (Department Exhibit A, pp. 21-22).

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 denial of full MA coverage. (Department Exhibit A, p. 2)

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 1, 2014), p. 2.

For MA, an individual under specific immigration statuses is limited to emergency services for the first five years in the U.S. (BEM 225, pp. 7-8)

When an applicant for Medicaid claims to be a U.S. citizen or to have qualified immigrant status, and all other eligibility factors are met, certify benefits. Once the case has been open and coverage entered in Bridges, verification of citizenship must be completed. BAM 130, (April 1, 2014), p. 4.

On the June 9, 2014, MA application, it was marked that Petitioner was not a United States citizen or national but did have eligible immigration status. (Department Exhibit A, p. 6) Petitioner's application was initially approved for Emergency Services Only (ESO) MA coverage. (Department Exhibit A, pp. 18-20)

On August 31, 2015, Petitioner filed a hearing request contesting the Department's determination. (Department Exhibit A, p. 2) The Department subsequently approved full MA coverage for June 2014 through June 2015 as a verification period. (Department Exhibit A, pp. 1 and 16-17; Eligibility Specialist Testimony) On November 19, 2015, a Health Care Coverage Determination Notice was issued to Petitioner stating she was eligible for full Medicaid coverage from July 2014 through June 2015. (Department Exhibit A, pp. 21-22). It is noted that the evidence indicates Petitioner's MA case must have closed for other reasons around July 2015, based on the Department's statements that all benefit periods that previously had ESO coverage have been updated to full MA coverage. (Department Exhibit A, p. 1; Eligibility Specialist Testimony)

The Eligibility Specialist explained that for ongoing eligibility, Petitioner would only be eligible for ESO MA coverage based on the verification that Petitioner has not been in the U.S. for five years. Petitioner has been a Permanent Resident of the United States since December 5, 2011. (Department Exhibit A, pp. 16-17 and Daughter Testimony) However, there is no jurisdiction to review any determination made after the August 31, 2015, request for hearing was filed. Petitioner may wish to file a new timely request for hearing if he contests any more recent determination(s). Pursuant to BAM 600, (October 1, 2015), p. 6, there is 90 calendar days from the date of the written notice of case action to request a hearing.

Additionally, it was noted during the hearing proceedings that Petitioner will soon have been in the U.S. for five years. Around December 2016 Petitioner may wish to follow up with the Department about his MA eligibility being re-determined for ongoing coverage.

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 has already updated their determination about MA eligibility based on Petitioner's immigration status for the relevant time period to full MA coverage.

DECISION AND ORDER

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



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

Date Mailed: **1/28/2016**

CL/las

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:

