

**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.: 15-020921; 15-021987
Issue No.: ESO
Agency Case No.: [REDACTED]
Hearing Date: February 3, 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 four-way telephone hearing was held on February 3, 2016, from Detroit, Michigan. The Petitioners, MD A. Miah (a minor child and hereinafter referred to as "Petitioner A") and [REDACTED] (hereinafter referred to as "Petitioner B"), were represented by the Authorized Hearing Representative (AHR), [REDACTED]. The Department was represented by [REDACTED], Eligibility Specialist. [REDACTED] served as translator during the hearing.

ISSUE

Did the Department properly determine Petitioners' 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], the AHR applied for MA benefits on behalf of the Petitioners. See Exhibits A, pp. 4-23.

2. On the date of the application, the Petitioners were not United States citizens. See Exhibits A, pp. 7 and 10.
3. Petitioner A's (the minor child) Medicaid Eligibility indicating the following coverage: (i) Emergency Services Only (ESO) MA coverage from January 2014 to July 2015; (ii) full-coverage MA for August 2015 to September 2015; and (iii) ESO MA coverage from October 2015, ongoing. See Petitioner's Exhibit A, pp. 24-26.
4. Petitioner B's Medicaid Eligibility indicating the following coverage: (i) full-coverage MA from January 2014 to September 2015; and (ii) ESO MA coverage from October 2015, ongoing. See Petitioner's B Exhibit A, pp. 24-25.
5. On [REDACTED], the AHR requested a hearing for both Petitioners. See Exhibits A, p. 2.
6. On [REDACTED], the Michigan Administrative Hearing System (MAHS) sent Petitioners a Notice of Hearing informing them of a hearing scheduled on [REDACTED].
7. On [REDACTED], MAHS sent Petitioners an Amended Notice of Hearing informing them of a hearing rescheduled on [REDACTED].

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 two Amended Notice of Hearings notifying the Petitioners of a hearing scheduled on [REDACTED].

On [REDACTED], the AHR was present for the hearing to represent the Petitioners. It should also be noted that the AHR is the father to the minor child, Petitioner A. The AHR is also the spouse to Petitioner B.

The undersigned consolidated both hearings scheduled into one administrative hearing. As a result, the undersigned issued this one hearing decision to address the following hearings:

- 1) Petitioner A – Reg. No. 15-020921; and
- 2) Petitioner B – Reg. No. 15-021987.

Additionally, the Exhibits were all admitted as Exhibit A for each Reg. No., thus, the admitted evidence will be referred to as “Exhibits A.”

ESO coverage

In this case, the AHR requested a hearing disputing the conversion to ESO MA and/or activation/denial of full MA coverage. It should also be noted that the undersigned’s jurisdiction is only to review whether the Department denied the Petitioners’ 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 this case, the AHR did not dispute the following: (i) the Petitioners entered the U.S. on [REDACTED] (ii) no one was a qualified military alien; and (iii) they did not enter the U.S. based on asylum or refugee status. Moreover, the evidence record did not present any of the Petitioners’ permanent resident cards nor did the AHR obtain their permanent resident cards during the hearing.

The Department also presented the Petitioners’ Medicaid Eligibility documents, which shows the type of coverage they received for each benefit month.

Petitioner A's (the minor child) Medicaid Eligibility indicating the following coverage: (i) Emergency Services Only (ESO) MA coverage from January 2014 to July 2015; (ii) full-coverage MA for August 2015 to September 2015; and (iii) ESO MA coverage from October 2015, ongoing. See Petitioner's Exhibit A, pp. 24-26.

Petitioner B's Medicaid Eligibility indicating the following coverage: (i) full-coverage MA from January 2014 to September 2015; and (ii) ESO MA coverage from October 2015, ongoing. See Petitioner's B Exhibit A, pp. 24-25.

Based on the foregoing information and evidence, along with both parties' testimony, the Department properly determined the Petitioners immigration status when determining MA eligibility.

In regard to Petitioner A (the minor child), he was not a permanent resident alien for five or more years, he did not enter the U.S. based on asylum or refugee status, and there was not a qualified military alien. As such, the Department properly determined that Petitioner A was not eligible for full-coverage MA from January 2014 to May 2015. It should be noted that Petitioner A's coverage switched back and forth from ESO to full coverage after May 2015; however, as stated above, the undersigned will not address the benefits outside this time frame. See Petitioner's Exhibit A, pp. 24-26.

In regards to Petitioner B, she had a different outcome as compared to Petitioner A because the Department provided Petitioner B with full-coverage MA from January 2014 to May 2015. See Petitioner B Exhibit A, pp. 24-25. However, the evidence is unclear why the Department provided Petitioner B with full-coverage MA when she is not eligible for it. The facts are the same with both Petitioners, Petitioner B as well was not a permanent resident alien for five or more years, she did not enter the U.S. based on asylum or refugee status, and there was not a qualified military alien. Therefore, Petitioner B would also not be eligible for full-coverage MA. Nonetheless, the Department chose anyway to provide Petitioner B with full-coverage MA during the time period in review. As such, there is no issue to dispute for Petitioner B as the Department provided Petitioner B with full-coverage MA. The undersigned affirms the Department's determination about Petitioner B's MA eligibility.

It should be noted, though, that the Petitioners converted back to ESO coverage. See Exhibits A, pp. 24-26. Based on the evidence presented, the Petitioners would not be eligible for full-coverage MA. However, this decision is not addressing their MA eligibility after May 2015. As stated above, the undersigned's jurisdiction is only to review whether the Department denied Petitioners' full MA coverage between January 2014 and May 2015.

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 Petitioners' 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**.



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

Date Signed: **2/4/2016**

Date Mailed: **2/4/2016**

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:

