



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

MIKE ZIMMER
DIRECTOR

[REDACTED]

Date Mailed: March 21, 2016
MAHS Docket No.: 15-021088
MAHS Docket No.: 15-021175
Agency No.: [REDACTED]
Petitioners: [REDACTED] and
[REDACTED]

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. Petitioners 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 February 24, 2016, from Detroit, Michigan. The Petitioner [REDACTED] was represented by himself. [REDACTED] who did not appear, was represented by [REDACTED], who served as her Authorized Hearing Representative (AHR). The Department was represented by [REDACTED], Eligibility Specialist. [REDACTED] served as [REDACTED] 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 Petitioners applied for MA or had a redetermination of current MA benefits.

2. On the date of MA application, Petitioners were not United States (U.S.) citizens.
3. The Department issued a Benefit Notice to [REDACTED] dated [REDACTED], advising him that he was eligible for full Medical coverage effective [REDACTED]. [REDACTED] Exhibit 2.
4. The Department issued a Benefit Notice to [REDACTED] dated [REDACTED], [REDACTED] advising her that she was eligible for full Medical coverage effective [REDACTED]. [REDACTED] Exhibit 2.
5. The [REDACTED], the MA application advised that neither of the Petitioners were citizens of the U.S. but listed alien registration numbers for both Petitioners. [REDACTED] Exhibit 1.
6. The Petitioners have permanent resident cards with a U.S. date of entry [REDACTED], and have not been in the U.S. for five (5) years.
7. Beginning [REDACTED], Petitioners' **MA case and/or application was approved** for full coverage Medicaid. Exhibit 2.
8. On a date unknown, the Department issued notices to the Petitioners indicating he/she might have been denied full MA coverage based on immigration status between [REDACTED].
9. On [REDACTED] [REDACTED], the Petitioners 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, Petitioners requested a hearing disputing the Department granting them ESO MA rather than full-coverage MA. Petitioners [REDACTED] and [REDACTED] are husband and wife and are in the same medical group. 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 (5) 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.

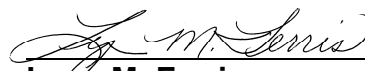
In this case, the Department testified that after Petitioners filed their hearing request, it reassessed MA eligibility. Based on Petitioners' statements in their MA application that they were not U.S. citizens but had eligible immigration status, it reassessed their eligibility and activated full-coverage MA for both Petitioners [REDACTED] and [REDACTED]. In Benefit Notices dated [REDACTED], the Department advised Petitioners their MA had been changed to full coverage Medicaid based because they had indicated eligible alien status. Thereafter, the Petitioners' MA case closed for failure to complete a redetermination, which is not an issue involved in this hearing.

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 for the period [REDACTED].

DECISION AND ORDER

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

LMF/jaf



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

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the

request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

[REDACTED]

Petitioner

[REDACTED]

Authorized Hearing Rep.

[REDACTED]