

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

IN THE MATTER OF:

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MAHS Reg. No.: 15-021210
Issue No.: ESO
Agency Case No.: ██████████
Hearing Date: January 13, 2016
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 4-way telephone hearing was held on January 13, 2016, from Detroit, Michigan. Petitioner is a minor child and was represented by her mother, ██████████, ██████████, Petitioner's mother's friend and neighbor, also participated in the hearing. The Department was represented by ██████████, Eligibility Specialist. ██████████ served as translator (Polish) during the hearing.

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 December 16, 2013, Petitioner applied for MA (Exhibit A, pp. 5-22).
2. The Department approved Petitioner for Emergency Services Only (ESO) MA coverage.

3. On March 24, 2015, Petitioner reapplied for MA, indicating she was a U.S. citizen and had eligible alien status (Exhibit A, pp. 23-29).
4. The Department approved Petitioner for full-coverage MA beginning January 1, 2015 (Exhibit A, pp. 30-31).
5. On the date of MA applications, Petitioner was not a United States citizen.
6. On an unknown date, the Department issued a notice to the Petitioner indicating he/she might have been denied full MA coverage based on immigration status between January 2014 and May 2015.
7. On August 27, 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 the Department granting her 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 and October 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 Petitioner had ESO MA coverage for January 2014 through December 2014, full-coverage MA from January 2015 through November 2015, and ESO MA coverage for December 1, 2015 ongoing. The Department explained that it mistakenly provided Petitioner with full-coverage MA beginning January 1, 2015 based on statements in the March 24, 2015 MA application that Petitioner was a U.S. citizen and had eligible alien status. However, in reviewing Petitioner's case after the hearing request was submitted, it concluded that Petitioner was not a U.S. citizen and did not have eligible alien status. As a result, it sent Petitioner the November 13, 2015 Health Care Coverage Determination Notice notifying her that she was eligible for ESO MA beginning December 1, 2015 (Exhibit A, pp. 35-37).

The evidence at the hearing established that Petitioner is a minor child. She is not a U.S. citizen but is a permanent U.S. resident. Her permanent residency card shows that she entered the U.S. from Poland on November 7, 2013 and is a category F21. Petitioner's mother testified that neither she nor Petitioner's father served in the U.S. military. Because Petitioner had not been a permanent resident alien for five or more years at the time of her MA applications, did not have an eligible class code of RE, AM or AS on her permanent residency card, and was not the child of a qualified military alien, she was not eligible for full-coverage MA. Because Petitioner did not meet any of the criteria for eligibility for full-coverage MA at the time her case was reviewed in November 2015, the Department acted in accordance with policy when it converted her MA case back to ESO coverage effective December 1, 2015. (Exhibit A, pp. 30, 35-37).

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 when determining MA eligibility.

DECISION AND ORDER

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



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: 1/15/2016
Date Mailed: 1/15/2016

ACE / tlf

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: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]