



RICK SNYDER  
GOVERNOR

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

MIKE ZIMMER  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: March 18, 2016  
MAHS Docket No.: 15-021306  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**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 telephone hearing was held via four-way telephone conference on March 10, 2016, from Detroit, Michigan. Petitioner appeared and represented herself. The Department was represented by [REDACTED], Assistance Payment Worker. [REDACTED] served as translator ([REDACTED]) during the hearing to the extent requested by Petitioner.

### **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 18, 2014 Petitioner applied for MA (Exhibit A, pp. 4-12).
2. On the date of MA application, Petitioner was not a United States citizen.

3. On December 29, 2014, the Department sent Petitioner a Health Care Coverage Determination Notice notifying her that she was eligible for Emergency Services Only (ESO) MA coverage effective September 1, 2014 (Exhibit A, p. 16).
4. On an unknown date, the Department issued a notice to the Petitioner indicating she may have been denied full MA coverage based on immigration status between January 2014 and May 2015.
5. On September 16, 2015, Petitioner requested a hearing (Exhibit A, p. 2).

### **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 (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. Persons refusing to provide citizen/alien status information on the application or unable or refusing to provide satisfactory verification of alien information are limited to ESO coverage. BEM 225, p. 3. The alien status of each non-citizen must be verified to be eligible for full MA coverage. BEM 225, p. 2.

In her December 12, 2014 MA application, Petitioner did not respond to questions concerning whether she was a U.S. citizen or a naturalized citizen or had eligible

immigration status (Exhibit A, p. 6). Because Petitioner did not identify herself as having eligible alien status, the Department acted in accordance with Department policy when it concluded that she was eligible for ESO coverage only. The Department presented documentation that Petitioner received ESO coverage from September 1, 2014 through November 30, 2015 (Exhibit A, pp. 13-15). The Department explained that Petitioner's case closed effective December 1, 2015 because she failed to submit a completed redetermination. Because the closure was unrelated to the issue of Petitioner's alien status and the issue of whether she was eligible for ESO or full-coverage MA, the parties were advised that the issue of the case closure was not properly presented for hearing and it is not addressed in this Hearing Decision. Petitioner is advised that she may request a hearing concerning the case closure or reapply for benefits.

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 properly determined 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**.



ACE/tlf

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**Alice C. Elkin**

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]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

via electronic mail:

[REDACTED]