

**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.: 15-021382
Issue No.: ESO
Agency Case No.: ██████████
Hearing Date: January 21, 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 3-way telephone hearing was held on January 21, 2016, from Detroit, Michigan. Petitioner was represented by ██████████, her husband and authorized hearing representative (AHR). The Department of Health and Human Services (Department) was represented by Samantha Bishop, 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 March 12, 2014 Petitioner applied for medical insurance through a federally facilitated marketplace application (Exhibit A, pp. 6-16).
2. On the date of application, Petitioner was not a United States citizen.

3. Beginning January 1, 2014, Petitioner was approved for Emergency Services Only (ESO) MA coverage (Exhibit A, pp. 25-27).
4. On an unknown date, the Department issued a notice to the Petitioner indicating she might have been denied full MA coverage based on immigration status between January 2014 and May 2015.
5. On August 28, 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 (October 2015), p. 2.

In this case, the Department testified that after Petitioner filed her hearing request, it reassessed her MA eligibility. Based on Petitioner's statements in her application attesting to having lawful alien status, it activated full-coverage MA for her beginning January 1, 2014 and continued this coverage through December 2014. On November 13, 2015, the Department sent Petitioner a Benefit Notice showing that it had changed her coverage for January 2014 through December 2014 to full-coverage MA (Exhibit A, pp. 23-24). The Department also provided a Medicaid eligibility summary showing that Petitioner received full-coverage MA beginning January 1, 2015 and this coverage continued through October 31, 2015 (Exhibit A, pp. 17-19).

The Department changed Petitioner's coverage back to ESO beginning November 1, 2015. The only issue presented is whether coverage was properly converted back to ESO. In her hearing request, Petitioner indicated that she was a U.S. citizen. A person

claiming U.S. citizenship is not eligible for ESO coverage. BEM 225, pp. 2, 20. U.S. citizenship must be verified for MA purposes. BEM 225, p. 19.

In this case, the AHR testified that he had provided to the Department before Petitioner filed her August 28, 2015 request for hearing a certificate of citizenship showing that Petitioner had attained U.S. citizenship on August 17, 2015. At the hearing, the AHR provided a certification of citizenship establishing that Petitioner became a U.S. citizen on August 17, 2015 (Exhibit 1). The Department denied receiving any citizenship documentation. However, the Department is required to complete a data match with the Social Security Administration to verify citizenship. BEM 225, p. 22. There was no evidence that the Department performed such a data match after it received Petitioner's August 28, 2015 request for hearing in which she states she is a U.S. citizen and before it converted Petitioner's MA coverage back to ESO effective November 1, 2015. Even if the data match was not sufficient to verify citizenship, the Department would be required to request verification from Petitioner, identifying the proof required to verify citizenship and a due date, before converting her case back to ESO. BEM 225, p. 22; BAM 130 (July 2015), p. 4. In this case, the Department acknowledged that no verifications were requested from Petitioner.

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 not properly determine 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 **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Redetermine MA eligibility for November 1, 2015 ongoing in accordance with Department policy.

2. Notify Petitioner in writing of the Department's new MA eligibility determination for November 1, 2015 ongoing.



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

Date Signed: **1/27/2016**

Date Mailed: **1/27/2016**

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]