

**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.: 15-021757; 15-023059
Issue No.: ESO
Agency Case No.: [REDACTED]
Hearing Date: January 11, 2016
County: DHHS SPPC

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 January 11, 2016, from Detroit, Michigan. The Petitioners, [REDACTED] and her son, [REDACTED], were represented by the Petitioner, [REDACTED], and her spouse, [REDACTED]. The Department was represented by Tim Emmerson, Eligibility Specialist. [REDACTED] served as translator during the hearing.

ISSUE

Did the Department properly determine Petitioner's and her son'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 [REDACTED], the spouse applied for MA benefits on behalf of the Petitioners (Rahela Begum and their son, Saifur Rahman). See Petitioner's Exhibit A, pp. 4-16 and Petitioner's son Exhibit A, pp. 5-17.
2. In the application, the spouse indicated that the Petitioners were not U.S. citizens. See Exhibit A, p. 5 and Petitioner's son Exhibit A, p. 7.

3. Petitioner [REDACTED] (hereinafter referred to as "Petitioner") Medicaid Eligibility indicated the following coverage: (i) Plan First! coverage from January 2014 to March 2014; (ii) full coverage from April 2014 to November 2015; and (iii) Emergency Services Only (ESO) MA coverage from [REDACTED], ongoing. See Exhibit A, pp. 17-19.
4. Petitioner [REDACTED] (hereinafter referred to as "Petitioner's son") Medicaid Eligibility indicated the following coverage: (i) full MA coverage from January 2014 to July 2014; (ii) no MA coverage from August 2014 to April 2015; (iii) full MA coverage from May 2015 to December 2015; and (iv) ESO MA coverage from [REDACTED], ongoing. See Petitioner's son Exhibit A, pp. 18-19.
5. On [REDACTED], Petitioner/her son requested a hearing. See Petitioner's Exhibit A, p. 2 and Petitioner's son Exhibit A, p. 2.
6. On [REDACTED], the Department sent Petitioner a Benefit Notice notifying her that she was eligible for full-coverage MA benefits from April 2014 to November 2015. See Exhibit A, pp. 20-21.
7. On [REDACTED], the Department sent Petitioner's son a Benefit Notice notifying him that he was eligible for full-coverage MA benefits from January 2014 to July 2014 and May 2015 to December 2015. See Petitioner's son Exhibit A, pp. 20-21.

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 Notice of Hearings to Petitioner and her son notifying them of a hearing scheduled on January 11, 2016.

On January 11, 2016, Petitioner, [REDACTED], was present for both hearings on behalf of herself (hereinafter referred to as "Petitioner") and her son, [REDACTED] (hereinafter referred to as "Petitioner's son"). Petitioner's spouse/father to Petitioner's son was also present for the hearing.

The undersigned consolidated both hearings scheduled into one administrative hearing. As a result, the undersigned issued this one hearing decision to address both Registration Numbers: 15-021757– [REDACTED]; and 15-023059 – [REDACTED].

Additionally, the Exhibits admitted into the record will be referred to as: Petitioner's Exhibit A or Petitioner's son Exhibit A.

ESO coverage

In this case, Petitioner/her son requested a hearing disputing their denial of full MA coverage.

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, Petitioner/her spouse indicated that both Petitioner and her son entered the United States on [REDACTED] and that no one was a qualified military alien. The evidence record did not contain Petitioner's nor her son's permanent resident card. However, Petitioner/her spouse indicated her card showed a F41 category and her son had a F43 category. Petitioner/her spouse finally indicated they were originally from Bangladesh, and they did not enter the U.S. based on asylum or refugee status.

In regard to the Petitioner, the Department testified that she received ESO for April 2014 to November 2015. See Exhibit A, p. 1. The Department testified that a DHS-176, Benefit Notice, was sent to Petitioner indicating all eligibility months of coverage. See

Exhibit A, p. 1. But then, the Department testified that it provided Petitioner will full MA coverage from April 2014 to November 2015, during the verification period. See BAM 130 (January 2014), pp. 4-5 (Citizenship and Identify Verification for MA and Adult Medical Program (AMP) and see Exhibit A, pp. 20-21 (Benefit Notice). However, the Department testified that Petitioner was not eligible for ongoing full MA coverage following these months because she did not return verification, or the verification received did not verify citizenship or being a permanent resident for 5 years or more. See Exhibit A, p. 1 and see Exhibit A, pp. 17-19 (Medicaid Eligibility). It should also be noted that Petitioner's Medicaid Eligibility indicated Plan First! MA coverage from January 2014 to March 2014. See Exhibit A, p. 19.

In regard to the Petitioner's son, the Department testified that the hearing matter has been resolved as the Department updated all benefits periods that previously had ESO coverage to full MA coverage. See Petitioner's Exhibit A, pp. 1 and 20-21 (Benefit Notice). Petitioner's son Medicaid Eligibility confirmed full MA coverage from January 2014 to July 2014 and May 2015 to December 2015, but indicated ESO MA coverage from [REDACTED], ongoing. See Petitioner's son Exhibit A, pp. 18-19.

Nevertheless, despite the Department's testimony/evidence that it converted Petitioner and her son to full MA coverage for certain benefit periods, the issue before the undersigned is whether the Department properly determined both members' immigration status or citizenship when determining MA eligibility. See Exhibit A, pp. 17-19 and Petitioner's son Exhibit A, pp. 18-19.

Based on the foregoing information and evidence, along with both parties testimony, the Department properly determined both members' immigration status when determining MA eligibility, except for the Petitioner's Plan First! determination for the period of January 2014 to March 2014, and Petitioner's son receiving no MA coverage from August 2014 to April 2015. At the time of the application dated [REDACTED], Petitioner and her son were not permanent resident aliens for five or more years, they did not have eligible class code, and they were not qualified military aliens. As such, the Department properly determined at the time that Petitioner and her son were not eligible for full-coverage MA, except for the Petitioner's Plan First! determination for the period of January 2014 to March 2014, and Petitioner's son receiving no MA coverage from August 2014 to April 2015. The evidence was unclear why the Department only provided Plan First! coverage for Petitioner from January 2014 to March 2014 rather than full coverage and/or ESO. Moreover, the evidence was unclear why Petitioner's son did not receive ESO or full coverage from August 2014 to April 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 (i) the Department properly determined Petitioner's immigration status or citizenship when determining her MA eligibility for [REDACTED], ongoing; (ii) the Department properly determined Petitioner son's immigration status or citizenship when determining his MA eligibility for [REDACTED] to [REDACTED] and [REDACTED], ongoing; (iii) the Department

improperly determined Petitioner's immigration status or citizenship when determining her MA eligibility from [REDACTED] to [REDACTED]; and (iv) the Department improperly determined Petitioner's son immigration status or citizenship when determining his MA eligibility from [REDACTED] to [REDACTED].

DECISION AND ORDER

Accordingly, the Department's determination about MA eligibility based on immigration status is **AFFIRMED IN PART** with respect to Petitioner's eligibility from [REDACTED], ongoing; and Petitioner's son eligibility from [REDACTED] to [REDACTED] and [REDACTED], ongoing, and **REVERSED IN PART** with respect to Petitioner's eligibility from [REDACTED] to [REDACTED], and Petitioner's son eligibility from [REDACTED] to [REDACTED].

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 Petitioner's MA eligibility from [REDACTED] to [REDACTED], in accordance with Department policy;
2. Redetermine Petitioner's son MA eligibility from [REDACTED] to [REDACTED], in accordance with Department policy; and
3. Notify Petitioner/son in writing of the Department's new MA eligibility determination.



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

Date Signed: 1/13/16
Date Mailed: 1/13/16

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:

