

**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.: 15-021760
Issue No.: ESO
Agency Case No.: [REDACTED]
Hearing Date: January 06, 2016
County: DHHS Special Processing Office

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 on January 6, 2016 from Lansing, Michigan. The Petitioner was represented by [REDACTED] (Authorized Hearing Representative (AHR)). The Department was represented by [REDACTED] (Eligibility Specialist). [REDACTED] [REDACTED] ([REDACTED] [REDACTED]) served as translator 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. Petitioner's family is from Bangladesh. [Exhibit 1, p. 6].
2. Petitioner is a minor child. [Exh. 1, p. 6].
3. On November 13, 2012, Petitioner became a permanent United States resident. [Exh. 1, p. 20].

4. On January 29, 2013, Petitioner applied for MA or had a redetermination of current MA benefits. [Exh. 1, pp. 5-14].
5. On the date of MA application, the Petitioner was a citizen of Bangladesh. [Exh. 1, p. 6].
6. On January 31, 2013, the Department mailed Petitioner a Notice of Case Action (DHS-1605) which approved Petitioner's MA application for Emergency Services Only (ESO) MA coverage. [Exh. 1, pp. 21-23].
7. In August, 2015, 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.
8. On September 18, 2015, Petitioner's AHR 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), 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 activation of ESO MA coverage. Petitioner's AHR states that he has a low income and the health care providers do not accept ESO MA coverage for Petitioner. The Department, on the other hand, contends that Petitioner was not eligible for full MA coverage because she had not been a U.S. resident for 5 years or more.

To be eligible for full MA coverage a person must be a U.S. citizen or an alien admitted to the U.S. under a specific immigration status. BEM 225 (1-1-2012), pp. 1-2. Persons who do not meet this requirement are disqualified. BEM 225, pp. 1-2. For MA, an individual is limited to emergency services for the first five years in the U.S. BEM 225, p. 6.

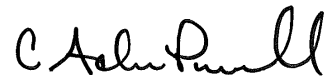
Petitioner's AHR testified that Petitioner and the family are from Bangladesh and, following their arrival in the U.S., were issued permanent resident cards on November 13, 2012. [Exh. 1, p. 20]. At time of application (January 31, 2013), Petitioner had not

been in the U.S. for five years. According to BEM 225, p. 6, Petitioner would have been eligible for ESO and not full MA before November 12, 2017.

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 or citizenship when determining MA eligibility.

DECISION AND ORDER

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



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

Date Mailed: **1/8/2016**

CAP/las

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:

