

**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.: 15-021906
Issue No.: ESO
Agency Case No.: [REDACTED]
Hearing Date: February 02, 2016
County: DHHS Special
Processing Office

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 February 2, 2016¹, from Lansing, Michigan. [REDACTED], sister, represented the Petitioner. The Department was represented by [REDACTED], Eligibility Specialist. [REDACTED], Linguistica International, provided interpretation services.

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 27, 2014, Petitioner applied for MA via the Federally Facilitated Marketplace (FFM). (Department Exhibit C, pp. 5-25)

¹ The Petitioner's case was held in conjunction with 15-021409, 15-021514, and 15-022390. The Petitioners in all four cases are family members and the appeals involved the same case action.

2. Petitioner's application was initially approved for Emergency Services Only (ESO) MA coverage.
3. Petitioner has been a Permanent Resident of the United States since April 20, 2012. (Department Exhibit C, p. 32)
4. On August 31, 2015, Petitioner filed a hearing request contesting the Department's determination. (Department Exhibit C, p. 2)
5. The Department subsequently approved full MA coverage for January 2014 through November 2015 as a verification period. (Department Exhibit C, pp. 1 and 26-28; Eligibility Specialist Testimony)
6. On November 2, 2015, a Health Care Coverage Determination Notice was issued to Petitioner stating he was eligible for full Medicaid coverage from January 2014 through October 2015. (Department Exhibit C, pp. 39-40)

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 denial of full MA coverage. (Department Exhibit C, p. 2)

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 (January 1, 2014), p. 2.

For MA, an individual under specific immigration statuses is limited to emergency services for the first five years in the U.S. (BEM 225, pp. 7-8)

When an applicant for Medicaid claims to be a U.S. citizen or to have qualified immigrant status, and all other eligibility factors are met, certify benefits. Once the case has been open and coverage entered in Bridges, verification of citizenship must be completed. Attempt to verify citizenship and identity through a data match such as the Social Security Administration or a DCH vital records match. MAGI- related applicants

will have citizenship and identity verified if the application comes to DHS via the Federally Facilitated Marketplace (FFM). If there is a discrepancy with the information or it is not available then contact with the beneficiary is necessary; see BEM 221 and 225. BAM 130, (January 1, 2014), p. 4.

On March 27, 2014, Petitioner applied for MA via the Federally Facilitated Marketplace (FFM). (Department Exhibit C, pp. 5-25) Petitioner's application was initially approved for Emergency Services Only (ESO) MA coverage.

On August 31, 2015, Petitioner filed a hearing request contesting the Department's determination. (Department Exhibit C, p. 2)

Petitioner has been a Permanent Resident of the United States since April 20, 2012. (Department Exhibit C, p. 32)

The Department subsequently approved full MA coverage for January 2014 through November 2015 as a verification period. (Department Exhibit C, pp. 1 and 26-28; Eligibility Specialist Testimony) On November 2, 2015, a Health Care Coverage Determination Notice was issued to Petitioner stating he was eligible for full Medicaid coverage from January 2014 through October 2015. (Department Exhibit C, pp. 39-40)

The Eligibility Specialist explained that for ongoing eligibility, Petitioner would only be eligible for ESO MA coverage based on the verification that Petitioner has not been in the U.S. for five years. Petitioner has only been a Permanent Resident of the United States since April 20, 2012. (Department Exhibit C, p. 32) However, there is no jurisdiction to review any determination made after the August 31, 2015, request for hearing was filed. Petitioner may wish to file a new timely request for hearing if he contests any more recent determination(s). Pursuant to BAM 600, (October 1, 2015), p. 6, there is 90 calendar days from the date of the written notice of case action to request a hearing.

When Petitioner has been in the U.S. for five years, around April 2017, Petitioner may wish to follow up with the Department about her MA eligibility being re-determined for ongoing coverage.

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 has already updated their determination about MA eligibility based on Petitioner's immigration status for the relevant time period to full MA coverage.

DECISION AND ORDER

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

Colleen Lack

Colleen Lack
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Mailed: **2/22/2016**

CL/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:

[REDACTED]