



RICK SNYDER
GOVERNOR

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

MIKE ZIMMER
DIRECTOR

Date Mailed: March 25, 2016
MAHS Docket Nos.: 15-021918 and
15-021591
Agency No.: [REDACTED]
Petitioners: [REDACTED]
[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 3-way telephone conference on March 17, 2016, from Detroit, Michigan. The hearings were consolidated for Petitioner [REDACTED], registration no. 15-021918, and his wife, Petitioner [REDACTED], registration no. 15-021591. Petitioners were represented by [REDACTED]. The Department was represented by [REDACTED], 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 September 16, 2014, [REDACTED] applied for MA benefits (Exhibit A, p. 9). [REDACTED] subsequently applied for MA.

2. On the date of MA application, Petitioners were not United States citizens.
3. [REDACTED] was approved for Emergency Services Only (ESO) MA coverage for October 1, 2013 ongoing and May 1, 2015 ongoing (Exhibit A, pp. 18-21; Exhibit B, pp. 21-23). [REDACTED] was approved for ESO MA coverage for May 1, 2015 ongoing (Exhibit A, p. 18-21).
4. On August 18, 2015, the Department issued a notice to Petitioners indicating they may have been denied full MA coverage based on immigration status between January 2014 and May 2015 (Exhibit A, p. 3; Exhibit B, p. 3).
5. On October 23, 2015, Petitioners requested hearings (Exhibit A, p. 2; Exhibit B, 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, Petitioners requested a hearing disputing the Department granting them 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 this case, Petitioners were initially both approved for ESO, [REDACTED] from October 1, 2013 ongoing, and [REDACTED] from May 1, 2015 ongoing. The Department testified that, in reassessing Petitioners' cases after receiving the hearing requests, it became aware that [REDACTED] permanent resident card showed that he had been a U.S. resident since July 19, 2010 (Exhibit A, p. 4). Because he had been a permanent resident for five or more years as of July 2015, it activated full-coverage MA for [REDACTED]. The Department presented a Medicaid eligibility summary showing that [REDACTED] was approved for full-coverage MA for each month beginning May 1, 2015 (Exhibit A, pp. 16-17) and a Benefit Notice sent to him on November 3, 2015 notifying him that he was approved for full-coverage MA beginning May 2015 ongoing (Exhibit A, pp. 22-23).

With respect to [REDACTED], the Department testified that based on her assertion in the September 16, 2014 MA application that she was had eligible immigration status (Exhibit B, p. 9), it reassessed her eligibility and activated full-coverage MA for her from January 1, 2014 to November 30, 2015. On November 11, 2015, the Department sent [REDACTED] a Benefit Notice showing that it had changed her coverage for January 2014 through October 2015 to full-coverage MA (Exhibit B, pp. 24-25). The Department added that the coverage continued through November 2015 and provided a Medicaid eligibility summary showing that she received full-coverage MA from January 1, 2014 through November 30, 2015 (Exhibit A, p. 11).

The Department changed [REDACTED] coverage back to ESO beginning December 1, 2015. The evidence presented by the Department, namely the copy of her permanent residency card, established that she had entered the U.S. from [REDACTED] in June 2013 with a category FX1 (Exhibit B, p. 4). There was no eligible asylum or refugee status identified on the permanent residency card. Further, [REDACTED] confirmed that neither he nor his wife had served in the U.S. military. Because [REDACTED] had not been a resident alien for 5 years, had not served in the U.S. military, and did not have asylum or refugee status, she was not eligible for full-coverage MA.

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 Petitioners' 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**.

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 in accordance with Department policy.
2. Notify Petitioner in writing of the Department's new MA eligibility determination.



ACE/tlf

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

[REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]
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