

**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. Nos.: 15-021983
and 15-023889
Issue No.: ESO
Agency Case No.: ██████████
Hearing Date: February 17, 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 telephone hearing was held on February 17, 2016, from Detroit, Michigan. The hearings were consolidated for Petitioner ██████████ ██████████, registration no. 15-021983, and Petitioner ██████████ ██████████, registration no. 15-023889. Petitioners, both minors, were represented by ██████████ ██████████, their brother and authorized hearing representative (AHR). The Department was represented by ██████████ ██████████, Eligibility Specialist.

ISSUE

Did the Department properly determine Petitioners' 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 December 29, 2014, Petitioners applied for MA (Exhibit A, pp. 4-18; Exhibit B, pp. 4-14).

2. On the date of MA application, Petitioners were not United States citizens.
3. The Department approved Petitioners for Emergency Services Only (ESO) MA coverage.
4. On an unknown date, 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.
5. On September 4, 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 hearings 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 (January 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. The alien status of each non-citizen must be verified to be eligible for full MA coverage. BEM 225, p. 2.

In this case, the Department testified that after Petitioners filed their hearing requests, it reassessed their MA eligibility. After reviewing their files, the Department became

aware that both Petitioners were permanent resident aliens who had been U.S. residents since April 2009 and were identified with a category code of RE8. The Department acknowledged that, as of November 2014, Petitioners had been permanent residents for more than five years. Based on both their refugee status and being in the U.S. for more than five years, Petitioners were eligible for full-coverage MA.

The Department testified that it had converted the improper ESO coverage to full-coverage MA for the period November 2014 to December 2014. On November 20, 2015, the Department sent Petitioner [REDACTED] a Benefit Notice notifying her that she was approved for full coverage MA for November 2014 through November 2015 (Exhibit A, pp. 27-28). On December 28, 2015, the Department sent Petitioner [REDACTED] a Benefit Notice notifying her that she was approved for full coverage MA from November 2014 through November 2015 (Exhibit B, pp. 18-19). The Department also provided a Medicaid eligibility summaries showing that Petitioners each received full-coverage MA between November 1, 2014 and November 30, 2015 based on refugee status (Exhibit A, pp. 19-21; Exhibit B, pp. 15-17).

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.

Although Petitioners' cases closed effective November 30, 2015, the Department explained that the closure was due to Petitioners' their failure to submit a completed redetermination. Because the closure was unrelated to the issue of Petitioners' alien status and the issue of whether they are eligible for ESO or full-coverage MA, it is not addressed in this Hearing Decision. The AHR was advised that Petitioners could request a hearing concerning the case closure or reapply for benefits.

DECISION AND ORDER

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



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

Date Signed: **2/25/2016**

Date Mailed: **2/25/2016**

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]
[REDACTED]