



RICK SNYDER
GOVERNOR

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

MIKE ZIMMER
DIRECTOR

[REDACTED]

Date Mailed: March 8, 2016
MAHS Docket No.: 15-022008, 15-022469
Agency No.: [REDACTED]
Petitioners: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

AMENDED HEARING DECISION

THIS DECISION WAS AMENDED TO CLARIFY THE REASONING AND CONCLUSION SECTION ONLY. THE FINDINGS OF FACT AND ORDER SECTIONS REMAIN UNCHANGED.

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 [REDACTED], from Detroit, Michigan. The Petitioners was represented by their mother, [REDACTED]. The Department was represented by Agent [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. On [REDACTED], Petitioner applied for MA.
2. On the date of MA application, Petitioner did not attest that she was a United States citizen and did not attest that she had eligible immigration status.

3. Beginning January 2015 through November 2015, Petitioners were approved for Emergency Services Only (ESO) MA coverage.
4. On [REDACTED], the Department issued a notice to the Petitioner indicating he/she might have been denied full MA coverage based on immigration status between January 2015 and November 2015.
5. On [REDACTED], Petitioner disagreed with the Department's actions and 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), 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.

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 (USCIS), 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, Petitioners did not attest that she was a United States citizen and did not attest that she had eligible immigration status. Petitioners' mother testified that Petitioners arrived in the United States on [REDACTED]. At the time of application, Petitioners had resided in the United States for less than five years. The Department testified that Petitioner was provided with ESO coverage only from the time of application ongoing. While it is true that as of [REDACTED], Petitioners met the five year requirement, the undersigned's jurisdiction is limited as to whether the Department

denied Petitioners' full MA coverage between January 2015 to May 2015, in accordance with federal and state laws and policies. As such, it is found that the Department acted properly in providing ESO benefits through May 2015. The Department agreed to retroactively provide Petitioner with full MA coverage as of June 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 the Department did properly determine Petitioners' immigration status or citizenship when determining MA eligibility for January 2015 through May 2015.

DECISION AND ORDER

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

JM/ hw



Jacquelyn A. McClinton

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

DHHS

[REDACTED]

Petitioners

[REDACTED]

[REDACTED]

[REDACTED]