

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

IN THE MATTER OF:

[REDACTED]

MAHS Reg. Nos.: 15-021993; 15-021974;
15-022122; 15-021741
Issue No.: ESO
Agency Case No.: [REDACTED]
Hearing Date: January 25, 2016
County: DHHS SPECIAL
PROCESSING OFFICE

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 three-way telephone hearing was held on January 25, 2016, from Detroit, Michigan. The Petitioners, [REDACTED], [REDACTED], and [REDACTED], were represented by the Authorized Hearing Representative (AHR) [REDACTED]. The Department was represented by [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly determine the 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 [REDACTED], the Petitioners had a redetermination that was processed.
2. On the date of the redetermination, the Petitioners were not United States citizens.

3. The Department indicated that the Petitioners had the following MA coverage: (i) Emergency Services Only (ESO) coverage from January 2014 to September 2014; (ii) full coverage from October 2014 to November 2014; (iii) ESO coverage for December 2014; (iv) full coverage from January 2015 to December 2015; and (v) ESO coverage from January 2016, ongoing.
4. On [REDACTED], the AHR requested a hearing for all four Petitioners. See Exhibits A, 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.

Preliminary matter

On [REDACTED], the Michigan Administrative Hearing System (MAHS) sent four Notices of Hearings notifying the Petitioners of a hearing scheduled on [REDACTED].

On [REDACTED], the AHR was present for the hearing to represent the Petitioners.

The undersigned consolidated all four hearings scheduled into one administrative hearing. As a result, the undersigned issued this one hearing decision to address all four hearings as follows:

- 1) [REDACTED] – Reg. No. 15-021993 (Petitioner);
- 2) [REDACTED] – Reg. No. 15-022122 (Petitioner’s spouse);
- 3) [REDACTED] – Reg. No. 15-021974 (Petitioner’s son); and
- 4) [REDACTED] – Reg. No. 15-021741 (Petitioner’s daughter).

Additionally, the Exhibits were all admitted as Exhibit A for each Reg. No., thus, the admitted evidence will be referred to as “Exhibits A.”

It should also be noted that it was discovered during the hearing that Petitioner and Petitioner's spouse were present at some points during the hearing; however, they did not provide any testimony.

ESO coverage

In this case, the AHR requested a hearing disputing the conversion to ESO MA and/or activation/denial of full MA coverage. It should also be noted that the undersigned's jurisdiction is only to review whether the Department denied the Petitioners' full MA coverage between January 2014 to May 2015, in accordance with federal and state laws and policies.

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, 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 AHR did not dispute the following: (i) the Petitioners' country of birth was Bangladesh; (ii) no one was a qualified military alien; and (iii) they did not enter the U.S. based on asylum or refugee status. Moreover, the evidence record did not present any of the Petitioners' permanent resident cards; however, the AHR had all of them present with him during the hearing. The AHR indicated the following permanent resident card information:

- 1) Petitioner - U.S. residency since [REDACTED] a F41 category;
- 2) Petitioner's spouse - U.S. residency since [REDACTED] and a F42 category;
- 3) Petitioner's son - U.S. residency since [REDACTED], and a F43 category; and
- 4) Petitioner's daughter – U.S. residency since [REDACTED], and a F43 category.

Additionally, in September 2014 and/or January 2015, the Department sent Petitioners Health Care Coverage Determination Notices (determination notices) that informed them that they were eligible for either ESO and/or full coverage MA benefits. See Exhibits A, pp. 6-10. In fact, the AHR testified that he recently received a determination

notice on [REDACTED] that informed all the Petitioners that they were eligible for full-coverage MA from January 2015 to November 2015. The Department presented each of the Petitioner's Medicaid Eligibility documents, which showed the type of coverage each individual received for each benefit month (i.e., ESO coverage for January 2014). See Exhibits A, pp. 4-7. However, these documents are not reliable anymore because of the Department's subsequent actions. For example, Petitioner's Medicaid Eligibility document showed that he received ESO coverage for January 2015 to May 2015; however, the Department now indicates that he received full coverage for January 2015 to May 2015. See Exhibits A, pp. 4-5. This was due to the Department redetermining the Petitioner's MA eligibility and informing him on [REDACTED] that he now eligible for full coverage from January 2015 to November 2015. Thus, the undersigned cannot rely on the Medicaid Eligibility documents for the hearing as they do not accurately reflect the type of coverage the Petitioners received. Therefore, during the hearing, the Department provided testimony as to the type of MA coverage each Petitioner received from [REDACTED], ongoing. It was discovered that each Petitioner had the same type of coverage from [REDACTED], ongoing, which the Department indicated as follows: (i) ESO coverage from January 2014 to September 2014; (ii) full coverage from October 2014 to November 2014; (iii) ESO coverage for December 2014; (iv) full coverage from January 2015 to December 2015; and (v) ESO coverage from January 2016, ongoing.

Nevertheless, despite the Department's testimony/evidence that it converted the Petitioners from full MA coverage and now to ESO coverage, the issue before the undersigned is whether the Department properly determined the Petitioners' immigration status or citizenship when determining MA eligibility.

Based on the foregoing information and evidence, along with both parties' testimony, the Department properly determined the Petitioners' immigration status when determining MA eligibility. In the present case, the Petitioners were not permanent resident aliens for five or more years, they did not enter the U.S. based on asylum or refugee status, they did not have an eligible class code, and there was not a qualified military alien. As such, the Department properly determined that the Petitioners were 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 did properly determine 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**.



Eric Feldman
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **1/26/2016**

Date Mailed: **1/26/2016**

EF / hw

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:

