

**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.: 15-022466
Issue No.: ESO
Agency Case No.: [REDACTED]
Hearing Date: February 11, 2016
County: DHHS SPECIAL PROCESSING
OFFICE

ADMINISTRATIVE LAW JUDGE: Jonathan Owens

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 11, 2016, from Detroit, Michigan. The Petitioner appeared by phone and was not represented. The Department was represented by [REDACTED] from the [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 April 7, 2014, Petitioner applied for MA benefits.
2. On the date of MA application, Petitioner was not a United States citizen.
3. Beginning April 1, 2014, Petitioner's MA application was approved for Emergency Services Only (ESO) MA coverage.

4. On September 2, 2015, Petitioner requested a hearing.
5. On November 17, 2015 the Department issued a new notice of case action indicating the Petitioner's case had been reviewed and full MA coverage was added back to April 1, 2014.

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 granting of ESO MA benefits beginning April 2014 and not full MA coverage. 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 for ESO MA coverage only 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.

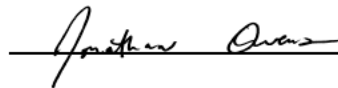
The Department testified at hearing that the Department did error in not granting the Petitioner full MA benefits at application. The Department, however, presented documentation demonstrating as of November 17, 2015, the Department had corrected this error and activated full MA coverage for the Petitioner back to April 2014.

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 not

properly determine Petitioner's immigration status or citizenship when determining MA eligibility originally in April 2014. The Department has, however, demonstrated that appropriate coverage was reinstated back to April 2014.

DECISION AND ORDER

Accordingly, the Department's MA determination based on immigration status is **AFFIRMED** as the Department has corrected the MA benefits in accordance with policy as of November 17, 2015.



Jonathan Owens
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **2/29/2016**

Date Mailed: **2/29/2016**

JWO/tm

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:

