

**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.: 15-022518
Issue No.: ESO
Agency Case No.: [REDACTED]
Hearing Date: February 3, 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 four-way telephone hearing was held on February 3, 2016, from Detroit, Michigan. The Petitioner (a minor child) was represented by the Authorized Hearing Representative (AHR)/father, [REDACTED]. The Department was represented by Alyssa Akins, Eligibility Specialist. [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], the AHR applied for MA benefits on behalf of the Petitioner. See Exhibit A, pp. 5-21.
2. On the date of MA application, Petitioner was not a United States citizen. See Exhibit A, p. 12.

3. On an unspecified date, Petitioner received Emergency Services Only (ESO) MA coverage; however, the Department updated the benefit periods that previously had ESO coverage and provided Petitioner with full-coverage MA from July 2013 to December 2015. See Exhibit A, pp. 1 and 22-23 (Medicaid Eligibility).
4. On [REDACTED], Petitioner's AHR requested a hearing. See Exhibit A, p. 2.
5. On [REDACTED], the Department sent Petitioner's AHR a Benefit Notice notifying Petitioner that he was eligible for full-coverage MA from July 2013 to November 2015. See Exhibit A, pp. 25-26. Petitioner's Medicaid Eligibility indicated full-coverage MA for December 2015. See Exhibit A, pp. 22-23.
6. Beginning [REDACTED], Petitioner's full-coverage MA was converted to ESO MA coverage. See Exhibit A, p. 22.
7. On [REDACTED], the Michigan Administrative Hearing System (MAHS) sent Petitioner a Notice of Hearing informing Petitioner of a hearing scheduled on [REDACTED].
8. On [REDACTED], MAHS sent Petitioner an Amended Notice of Hearing informing Petitioner of a hearing rescheduled on [REDACTED].

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's AHR requested a hearing disputing the MA benefits. See Exhibit A, p. 2. It should also be noted that the undersigned's jurisdiction is only to review whether the Department denied Petitioner's 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, on [REDACTED], the AHR applied for MA benefits on behalf of the Petitioner. See Exhibit A, pp. 5-21. On the date of MA application, Petitioner was not a United States citizen. See Exhibit A, p. 12.

On an unspecified date, Petitioner received ESO MA coverage; however, the Department updated the benefit periods that previously had ESO coverage and provided Petitioner with full-coverage MA from July 2013 to December 2015. See Exhibit A, pp. 1 and 22-23 (Medicaid Eligibility). In fact, the Department presented Petitioner's Medicaid Eligibility document, which showed that he has received full MA coverage from July 2013 to December 2015. See Exhibit A, pp. 22-23. It should be noted that beginning [REDACTED], Petitioner's full-coverage MA was converted to ESO MA coverage. See Exhibit A, p. 22.

In response, the AHR argued that the Petitioner would need full-coverage MA. The AHR argued that Petitioner entered the U.S. based on refugee status, but presented no such proof.

Additionally, the evidence record did contain Petitioner's permanent resident card, which showed that he was a resident since [REDACTED], and DV3 category. See Exhibit A, p. 24. Finally, the AHR indicated that no family member was a qualified military alien.

Based on the foregoing information and evidence, along with both parties' testimony, the Department properly determined Petitioner's immigration status when determining MA eligibility.

First, the Department provided Petitioner with full-coverage MA during the time period in which the undersigned can review (undersigned's jurisdiction is only from January 2014 to May 2015). As such, there is no issue to dispute during the time period in review as the Department provided Petitioner with full-coverage MA. As such, the undersigned affirms the Department's determination about Petitioner's MA eligibility based on immigration status.

Second, as to Petitioner's MA coverage beginning [REDACTED], he might only be eligible for ESO coverage. In the present case, Petitioner was not a permanent resident

alien for five or more years, he did not enter the U.S. based on asylum or refugee status, he did not have an eligible class code, and there was not a qualified military alien. Based on this information, Petitioner would not be eligible for full-coverage MA. However, this decision is not addressing Petitioner's MA eligibility after May 2015. As stated above, the undersigned's jurisdiction is only to review whether the Department denied Petitioner's full MA coverage between January 2014 and May 2015. In this case, the Department did not deny Petitioner's full MA coverage between January 2014 and May 2015 but instead provided him with full MA coverage. See Exhibit A, pp. 22-23.

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 Petitioner's 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: **2/3/2016**

Date Mailed: **2/3/2016**

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:

