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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 4, 2016
MAHS Docket No.: 15-022540
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Darryl Johnson

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 March 1, 2016, from Lansing, Michigan. The Petitioner was represented by Petitioner. The Department was represented by [REDACTED], 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 July 22, 2013, Petitioner applied for MA or had a redetermination of current MA benefits.
2. On the date of MA application or redetermination, Petitioner was not a United States citizen.

3. Beginning September 1, 2013, Petitioner's full-coverage MA case application was approved for Emergency Services Only (ESO) MA coverage.
4. In August 2015, the Department issued a notice to the Petitioner indicating he might have been denied full MA coverage based on immigration status between January 2014 and May 2015.
5. On September 21, 2015, Petitioner requested a hearing.
6. On November 5, 2015, the Department issued a Determination finding Petitioner/Petitioner's family members were eligible for full-coverage MA from January 1, 2014 through December 31, 2014.
7. On December 1, 2015, the Department issued a Determination finding Petitioner's family members were eligible for full-coverage MA and Petitioner was eligible for ESO coverage from December 1, 2014 through June 30, 2015.

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 denial of full MA coverage.

To be eligible for full MA coverage a person must be a U.S. citizen or an alien admitted to the U.S. under a specific immigration status. BEM 225 (1/1/2014), p. 1. Petitioner testified that he and his family are immigrants from [REDACTED] who entered the United States on July 17, 2013. At time of application or redetermination, Petitioner or Petitioner's family member status was permanent resident.

Policy requires the Department determine the alien status of each non-citizen requesting benefits at application, member addition, redetermination and when a change is reported. BEM 225 (1-1-2014), p. 1.

To be eligible for full MA coverage, a person must be a U.S. citizen or an alien admitted to the U.S. under a specific immigration status. BEM 225, p. 2. The alien status of each non-citizen must be verified to be eligible for full MA coverage. BEM 225, p. 2.

A person claiming U.S. citizenship is not eligible for ESO coverage. BEM 225, p. 2. U.S. citizenship must be verified with an acceptable document to continue to receive Medicaid. BEM 225, p. 2.

Citizenship/alien status is not an eligibility factor for emergency services only (ESO) MA. However, the person must meet all other eligibility factors, including residency. BEM 225, p. 2. For MA, an individual is limited to emergency services for the first five years in the U.S. BEM 225, p. 8.

MA coverage is limited to emergency services for any: (1) persons with certain alien statuses or U.S. entry dates as specified in policy; (2) persons refusing to provide citizenship/alien status information on the application; and/or (3) persons unable or refusing to provide satisfactory verification of alien information. BEM 225, p. 3. All other eligibility requirements including residency **must** be met even when MA coverage is limited to emergency services. BEM 225, p. 3.

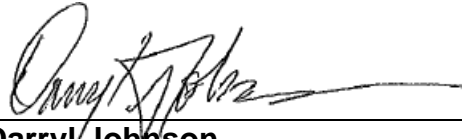
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not properly determine Petitioner's immigration status or citizenship when determining MA eligibility. Petitioner entered the U.S. on July 17, 2013 and as of the time of his application he had not yet been in the U.S. for five years. Therefore, his coverage was limited to ESO. The Healthcare Coverage Determination Notice dated December 1, 2015 (Exhibit 1 Pages 32-35) erred in approving him for full coverage for December 2014 through June 2015.

DECISION AND ORDER

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

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Redetermine MA eligibility in accordance with Department policy.
2. Notify Petitioner in writing of the Department's new MA eligibility determination.



DJ/mc

Darryl Johnson
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.

DHHS

[REDACTED]

Petitioner

[REDACTED]