



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: April 21, 2016  
MAHS Docket No.: 15-022786  
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 April 20, 2016, from Lansing, Michigan. The Petitioner appeared on her own behalf. The Department was represented by Eligibility Specialist [REDACTED].

### **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 June 19, 2012 Petitioner applied for MA benefits.
2. On the date of MA application, Petitioner was not a United States citizen.
3. Beginning October 1, 2012, Petitioner's full-coverage MA application was approved for Emergency Services Only (ESO) MA coverage.

4. In August 2015, the Department issued a notice to the Petitioner indicating she might have been denied full MA coverage based on immigration status between January 2014 and May 2015.
5. On November 24, 2015, Petitioner 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.

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.

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.

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.

Persons listed under the program designations in Acceptable Status meet the requirement of citizenship/alien status. Eligibility may depend on whether or not the person meets the definition of Qualified Alien. BEM 225, p. 3.

“Qualified alien” means an alien who is:

- a. Lawfully admitted for **permanent residence** under the INA. BEM 225, p. 4 (Emphasis added).
- b. Granted asylum under Section 208 of the INA.
- c. A **refugee** who is admitted to the U.S. under Section 207 of the INA; this includes Iraqi and Afghan special immigrants. BEM 225, p. 4 (Emphasis added).
- d. **Paroled** into the U.S. under Section 212(d)(5) of the INA for a period of at least one year. BEM 225, p. 4 (Emphasis added).
- e. An alien whose deportation is being **withheld** under Section 241(b)(3) or 243(h) of the INA. BEM 225, p. 4 (Emphasis added).
- f. Granted **conditional entry** pursuant to Section 203(a)(7) of the INA. BEM 225, p. 4 (Emphasis added).
- g. A **Cuban/Haitian** entrant, or an alien who has been **battered** or subjected to **extreme cruelty** in the U.S. by a U.S. citizen. BEM 225, p. 4 (Emphasis added).
- h. A **legal permanent resident spouse or parent**, or by a member of the spouse or parent’s family living in the same household, or is the parent or child of a battered person. BEM 225, p. 4 (Emphasis added).

For MA, an individual is limited to emergency services for the first five years in the U.S. BEM 225, p. 8. The coverage of a person who is unable to obtain verification of alien status or refuses to cooperate in obtaining it is limited to emergency services until verification is obtained. BEM 225, p. 20.

In this case, Petitioner requested a hearing disputing the denial of full MA coverage.

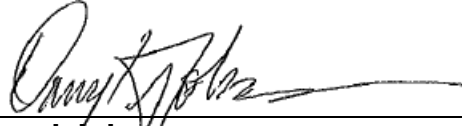
To be eligible for full MA coverage a person must be a U.S. citizen or an alien admitted to the U.S. under a specific immigration status. BEM 225 (1/1/14), p. 2. Petitioner testified that she entered the United States in August 2010, but she did not become a permanent resident until February 2012. She is not eligible for anything more than ESO until she has been lawfully in the U.S. as a permanent resident, and that will not occur until February 2017.

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 properly determined 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**.

DJ/mc



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**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 (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]

[REDACTED]

**Petitioner**

[REDACTED]