

**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.: 15-022878
Issue No.: ESO
Agency Case No.: [REDACTED]
Hearing Date: January 14, 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 January 14, 2016, from Detroit, Michigan. The Petitioner was represented by his mother, [REDACTED] and his father, [REDACTED] a. 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 [REDACTED], the mother applied for MA benefits on behalf of the Petitioner. See Exhibit A, pp. 4-41.
2. In the application, it was indicated that Petitioner was not a U.S. citizen or a U.S. national, but stated that he did have eligible immigration status. See Exhibit A, p. 10.

3. The Department provided Petitioner with full MA coverage based on refugee status, even though Petitioner did not enter the U.S. based on refugee status.
4. Petitioner's Medicaid Eligibility indicated the following coverage: (i) full coverage from January 2014 to July 2014; (ii) no coverage from August 2014 to October 2014; and (iii) full coverage from November 2014, ongoing. See Exhibit A, pp. 42-44.
5. On [REDACTED], Petitioner's mother requested a hearing. See Exhibit A, p. 2.
6. On [REDACTED], the Department sent Petitioner a Benefit Notice notifying him that he is eligible for full coverage effective November 2014 and January 2015 to October 2015. See Exhibit A, pp. 50-51.
7. On or around [REDACTED], the Michigan Administrative Hearing System (MAHS) received a hearing request withdrawal.
8. On [REDACTED], the undersigned issued an Order Denying Hearing Request Withdrawal.

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 mother requested a hearing regarding her son's (the Petitioner) MA coverage. 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, the evidence record did not contain Petitioner's permanent resident card. However, Petitioner's mother/father had his permanent resident card present with them during the hearing and indicated that his card showed that he was a resident since [REDACTED], and a FX2 category. Petitioner's mother/father also indicated that the Petitioner was from [REDACTED] no one was a qualified military alien, and he did not enter the U.S. based on asylum or refugee status.

However, the evidence established that the Department provided the Petitioner with full MA coverage based on eligible refugee status, even though his own mother/father indicated he did not enter the U.S. based on refugee status. See Exhibit A, pp. 42-44. Petitioner's Medicaid Eligibility indicated the following coverage: (i) full coverage from January 2014 to July 2014; (ii) no coverage from August 2014 to October 2014; and (iii) full coverage from November 2014, ongoing. See Exhibit A, pp. 42-44. The evidence was unclear why Petitioner received no MA coverage from August 2014 to October 2014.

During the hearing, the Department testified that Petitioner's immigration status as a refugee was entered incorrectly in the Department's system and is why Petitioner received full coverage. Moreover, the Department testified that it provided full coverage to Petitioner because he lawfully attested to being in the U.S. See Exhibit A, p. 10 (application indicating he did have eligible immigration status). However, the Department forewarned the parents that Petitioner would not be eligible for full coverage in the future.

Nevertheless, despite the Department's testimony/evidence that Petitioner is no longer eligible for full MA coverage, the issue before the undersigned is whether the Department properly determined Petitioner's immigration status or citizenship when determining MA eligibility.

When an applicant for Medicaid claims to be a U.S. citizen or to have qualified immigrant status, and all other eligibility factors are met, certify benefits. BAM 130 (January 2014; April 2014; July 2014; October 2014; and July 2015), p. 4. Once the case has been open and coverage entered in Bridges, verification of citizenship must be completed. BAM 130, p. 4 and see BAM 130, pp. 4-5 (regarding further policy requirements when verifying citizenship status for MA benefits).

Based on the foregoing information and evidence, along with both parties testimony, the Department properly determined Petitioner's immigration status when determining MA eligibility, except for the Petitioner receiving no MA coverage from August 2014 to October 2014. Yes, the evidence established that Petitioner did not enter the U.S. based on refugee status. Furthermore, the Department acknowledged that it entered Petitioner's immigration status as a refugee incorrectly in its system and that is why Petitioner received full coverage. Nonetheless, the Department also testified that it provided full coverage to Petitioner because he lawfully attested to being in the U.S (in his application). Based on this last statement by the Department that it provided Petitioner will full coverage because he lawfully attested to being in the U.S., the undersigned finds that Department properly determined Petitioner's immigration status when determining his MA eligibility. See BAM 130, p. 4. However, the evidence was unclear why the Department did not provide Petitioner with any coverage from August 2014 to October 2014 and therefore, the Department is ordered to redetermine his MA eligibility for this timeframe.

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 (i) the Department properly determined Petitioner's immigration status or citizenship when determining his MA eligibility from January 2014 to July 2014 and November 2014, ongoing; and (ii) the Department improperly determined Petitioner's immigration status or citizenship when determining his MA eligibility from August 2014 to October 2014.

DECISION AND ORDER

Accordingly, the Department's determination about MA eligibility based on immigration status is **AFFIRMED IN PART** with respect to Petitioner's eligibility from January 2014 to July 2014 and November 2014, ongoing, and **REVERSED IN PART** with respect to Petitioner's eligibility from August 2014 to October 2014.

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 Petitioner's MA eligibility from August 2014 to October 2014, in accordance with Department policy; and

2. Notify Petitioner in writing of the Department's new MA eligibility determination.



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

Date Signed: **1/14/2016**

Date Mailed: **1/14/2016**

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:

