

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

IN THE MATTER OF:



MAHS Reg. Nos.: 15-022958
15-022956
15-022900
Issue No.: ESO
Agency Case No.: [REDACTED]
Hearing Date: January 27, 2016
County: DHHS SSPC OFFICE

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 4-way telephone hearing was held on January 27, 2016, from Detroit, Michigan. The Petitioner was represented by [REDACTED] for herself and Authorized Hearing Representative (AHR) for [REDACTED], her minor child and [REDACTED] her husband. The Department was represented by [REDACTED], Eligibility Specialist. [REDACTED], served as [REDACTED] 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 September 4, 2014, Petitioner(s) ([REDACTED] [REDACTED] their minor child, the Petitioners) applied for MA benefits. On the MA application the Petitioners marked that they had eligible immigration status. The Petitioners are in the same MA group. Exhibit 1.

2. On the date of MA application or redetermination, Petitioner [REDACTED] [REDACTED] her husband; and [REDACTED], her minor son; were not United States citizens.
3. The Petitioner and her husband, [REDACTED], entered the U.S. as permanent residents on [REDACTED]. At the time of the MA application on September 4, 2014, Petitioner [REDACTED] and her husband had not been in the U.S. for five years.
4. On November 10, 2015, the Department issued a Benefit Notice to [REDACTED] [REDACTED] advising the Petitioner that she was eligible for full MA coverage beginning September 2014 through November 2015. Exhibit 3.
5. On December 16, 2015, the Department issued a Benefit Notice to [REDACTED], Petitioner's husband, advising that he was eligible for full MA coverage beginning May 2014 through November 2015. Exhibit 2.
6. On December 16, 2015, the Department issued a Benefit Notice to [REDACTED], the Petitioner's minor child, advising that he was eligible for full MA coverage beginning September 2014 through November 2015. Exhibit 3.
7. On a date unknown, the Department issued a notice to the Petitioner indicating he/she might have been denied full MA coverage based on immigration status between January 2014 and May 2015.
8. As of December 1, 2015, the Petitioners' MA group were converted back to ESO MA.
9. On August 31, 2015, Petitioners requested hearings.

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 [REDACTED], on her own behalf and as AHR for [REDACTED], her husband, and [REDACTED], her minor child, requested a hearing disputing the Department granting her MA group ESO MA rather than full-coverage MA. 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), 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 Petitioner credibly testified that she; her child, [REDACTED]; and her husband, [REDACTED]; had a U.S. date of entry as of [REDACTED], as permanent residents on her green card. This was confirmed by the Department's Bridges system.

The Department testified that after Petitioner filed her hearing request, it reassessed her MA group's eligibility. Based on Petitioner's statements in her MA application that she, her husband and child were not U.S. citizens but had eligible immigration status and that she was a permanent resident, it reassessed the MA groups' eligibility and activated full-coverage MA for Petitioner [REDACTED], [REDACTED] and [REDACTED] for MA. On November 10, 2015, the Department sent Petitioner [REDACTED] a Benefit Notice showing that it had changed Petitioner [REDACTED] coverage for September 2014 through November 2015 to full-coverage MA (Exhibit 3, pp. 22-23 ([REDACTED])). On December 16, 2015, the Department sent a Benefit Notice to [REDACTED] showing that it had changed his coverage for September 2014 through November 2015 to full-coverage MA. Exhibit 3, pp. 23-24, ([REDACTED])). On December 16, 2015, the Department sent [REDACTED] a Benefit Notice showing that it had changed his coverage to full-coverage MA for the period May 2014 through November 2015. Exhibit 2, pp. 22-23, ([REDACTED])). The Department decided administratively to make the change to full coverage MA due to the application statements, not the immigration status.

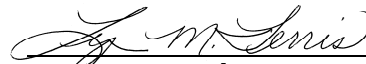
The Department changed Petitioner B [REDACTED], [REDACTED] and [REDACTED] coverage back to ESO beginning December 1, 2015. The only issue presented is whether coverage was properly converted back to ESO. The evidence presented by the Department, from its Bridges system and the Petitioner's testimony, established that Petitioner, her husband and son all had entered the U.S. in July 6, 2011. There was no eligible asylum or refugee status identified as evidence presented regarding the permanent residency card. Further, there was no evidence in the application that Petitioner or her husband had served in the U.S. military or was the spouse of a service person. Because Petitioner and her MA group had not been a resident aliens for five

years, had not served in the U.S. military, and did not have asylum or refugee status, Petitioner [REDACTED], her son [REDACTED] and husband [REDACTED] were not eligible for full-coverage MA. Therefore, the Department properly converted the MA group's MA coverage to ESO coverage effective December 1, 2015. The Petitioner's MA group is approaching five years permanent resident in July 2016 and should re-apply for MA at that time.

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**.



Lynn M. Ferris

Administrative Law Judge

for Nick Lyon, Director

Department of Health and Human Services

Date Mailed: **2/23/2016**

LMF/jaf

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:

[REDACTED]