

**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.: 15-023336; 15-023338;
15-023076
Issue No.: ESO
Agency Case No.: [REDACTED]
Hearing Date: February 17, 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 17, 2016, from Detroit, Michigan. The Petitioners ([REDACTED] – Petitioner A, [REDACTED] – Petitioner B, and [REDACTED] – Petitioner C) were represented by [REDACTED]. The Department was represented by [REDACTED], Eligibility Specialist. [REDACTED] served as translator during the hearing.

ISSUE

Did the Department properly determine Petitioners' 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], Petitioner A applied for MA benefits on behalf of all the Petitioners. See Exhibits A, pp. 5-24.

2. On the date of MA application, Petitioners were not United States citizens, but they did indicate in the application that they had eligible immigration status. See Exhibits A, pp. 8-11.
3. On [REDACTED], the Department sent Petitioner A a Health Care Coverage Determination Notice (determination notice) notifying him that all three Petitioners were eligible for Emergency Services Only (ESO) coverage effective [REDACTED], ongoing. See Exhibits A, pp. 30-32.
4. Petitioner's A Medicaid Eligibility indicated the following coverage: (i) full coverage for January 2014 to March 2014; (ii) ESO coverage from April 2014 to December 2014; and (iii) no MA coverage effective [REDACTED]. See Exhibit A, pp. 25-26.
5. Petitioner's B Medicaid Eligibility indicated the following coverage: (i) full coverage for January 2014 to February 2014; (ii) ESO coverage from March 2014 to December 2014; (iii) no MA coverage from January 2015 to February 2015; (iv) full coverage MA from March 2015 to April 2015; and (v) no MA coverage effective [REDACTED]. See Exhibit A, pp. 25-26.
6. Petitioner's C Medicaid Eligibility indicated the following coverage: (i) full coverage for January 2014 to February 2014; (ii) ESO coverage from March 2014 to December 2014; (iii) no MA coverage from January 2015 to February 2015; (iv) full coverage MA from March 2015 to April 2015; and (v) no MA coverage effective [REDACTED]. See Exhibit A, pp. 25-26.
7. On [REDACTED], the Petitioners requested a hearing. See Exhibits A, p. 2.
8. On [REDACTED], the Department sent Petitioner A a Benefit Notice notifying him that he was approved for full coverage MA from January 2014 to March 2014. See Exhibit A, pp. 27-28.
9. On [REDACTED], the Department sent Petitioner B and C a Benefit Notice notifying them that they were approved for full coverage MA from January 2014 to February 2014. See Exhibits A, pp. 28-29.

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.

Preliminary matter

On [REDACTED], the Michigan Administrative Hearing System (MAHS) sent three Notice of Hearings notifying the Petitioners of a hearing scheduled on February 17, 2016.

On [REDACTED], Petitioner A was present for the hearings to represent the Petitioners. It should also be noted that Petitioner A is father to Petitioners B and C.

The undersigned consolidated all three hearings scheduled into one administrative hearing. As a result, the undersigned issued this one hearing decision to address the following hearings:

- 1) Petitioner A – Reg. No. 15-023336;
- 2) Petitioner B – Reg. No. 15-023338; and
- 3) Petitioner B – Reg. No. 15-023076.

Additionally, the Exhibits were all admitted as Exhibit A for each Reg. No.

ESO coverage

In this case, the Petitioners requested a hearing disputing the conversion to ESO MA and/or activation/denial of full MA coverage. It should also be noted that the undersigned's jurisdiction is only to review whether the Department denied the Petitioners' 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, Petitioner A did not dispute the following: (i) the Petitioners entered the U.S. on [REDACTED]; (ii) no one was a qualified military alien; and (iii) they did not enter the U.S. based on asylum or refugee status.

The Department also presented the Petitioners Medicaid Eligibility documents, which shows the type of coverage they received for each benefit month.

Petitioner A's Medicaid Eligibility indicated the following coverage: (i) full coverage for January 2014 to March 2014; (ii) ESO coverage from April 2014 to December 2014; and (iii) no MA coverage effective [REDACTED]. See Exhibit A, pp. 25-26.

Petitioner B's Medicaid Eligibility indicated the following coverage: (i) full coverage for January 2014 to February 2014; (ii) ESO coverage from March 2014 to December 2014; (iii) no MA coverage from January 2015 to February 2015; (iv) full coverage MA from March 2015 to April 2015; and (v) no MA coverage effective [REDACTED]. See Exhibit A, pp. 25-26.

Petitioner C's Medicaid Eligibility indicated the following coverage: (i) full coverage for January 2014 to February 2014; (ii) ESO coverage from March 2014 to December 2014; (iii) no MA coverage from January 2015 to February 2015; (iv) full coverage MA from March 2015 to April 2015; and (v) no MA coverage effective [REDACTED]. See Exhibit A, pp. 25-26.

A review of the Petitioners' Medicaid Eligibility discovered two issues during the hearing that will be explained below:

First, the Petitioners were provided with full coverage MA before they were switched to ESO coverage. The Department indicated that it provided full coverage for the Petitioners during these time periods because they attested to having eligible immigration status on their application. See Exhibit A, pp. 8-11; and see BAM 130 (January 2014; April 2014; July 2014; October 2014; and July 2015), p. 4 (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. Once the case has been opened and coverage entered in Bridges, verification of citizenship must be completed).

Second, it was discovered that Petitioner A's MA coverage closed effective [REDACTED]. Moreover, Petitioners B and C MA coverage closed from January 2015 to February 2015 and [REDACTED]. The Department indicated that these closures were not based on their immigration status but for other reasons (i.e., failure to submit a redetermination). The undersigned will not address these closures. The issue before the undersigned is whether the Department properly determined the Petitioners immigration status and citizenship when determining MA eligibility. The closures were

unrelated to the issue that the undersigned is task to address. As such, the undersigned will not further address the above closures.

Nonetheless, based on the foregoing information and evidence, along with both parties' testimony, the Department properly determined the Petitioners' immigration status when determining MA eligibility.

In regards to Petitioner A, he was not a permanent resident alien for five or more years, he did not enter the U.S. based on asylum or refugee status, and there was not a qualified military alien. As such, the Department properly determined that Petitioner A was not eligible for full-coverage MA. Moreover, the Department provided Petitioner A with full coverage MA from January 2014 to March 2014 because he attested to lawfully being in the U.S.. See Exhibit A, pp. 8-11. Because Petitioner A attested to lawfully being in the U.S., the undersigned finds that Department properly determined Petitioner's immigration status when determining his MA eligibility for January 2014 to March 2014. See BAM 130, p. 4.

In regards to Petitioners B and C, they were not permanent resident aliens for five or more years, they did not enter the U.S. based on asylum or refugee status, and there was not a qualified military alien. As such, the Department properly determined that Petitioners B and C were not eligible for full-coverage MA. Moreover, the Department provided Petitioners B and C with full coverage MA from January 2014 to February 2014 because they attested to lawfully being in the U.S. See Exhibit A, pp. 8-11. Because Petitioners B and C attested to lawfully being in the U.S., the undersigned finds that the Department properly determined their immigration status when determining their MA eligibility for January 2014 to February 2014. See BAM 130, p. 4. It should be noted that Petitioners B and C also received full coverage MA from March 2015 to April 2015. It is unclear if this full coverage was based on Petitioners B and C attesting to lawfully being in the U.S. in a new application. Nonetheless, the Department provided them with full coverage during this time period.

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 Petitioners A, B, and C 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: **FEBRUARY 23, 2016**

Date Mailed: **FEBRUARY 23, 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:

