

**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.: 15-024112
Issue No.: ESO
Agency Case No.: [REDACTED]
Hearing Date: February 16, 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 three-way telephone hearing was held on February 16, 2016, from Detroit, Michigan. The Petitioner was represented by the Authorized Hearing Representative (AHR), [REDACTED] (father to Petitioner). The Department was represented by [REDACTED], Eligibility Specialist.

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 AHR applied for MA benefits on behalf of the Petitioner. See Exhibit A, pp. 7-15.
2. On the date of MA application, Petitioner was a United States citizen. See Exhibit A, p. 4.

3. On [REDACTED], the Department sent the AHR a Health Care Coverage Determination Notice (determination notice) notifying him that Petitioner was found eligible for only Emergency Services Only (ESO) coverage effective [REDACTED], ongoing. See Exhibit A, pp. 21-22.
4. On [REDACTED], Petitioner's AHR requested a hearing. See Exhibit A, p. 2.
5. On [REDACTED], the Department sent Petitioner a Benefit Notice notifying him that he was eligible for full MA coverage from [REDACTED], ongoing. See Exhibit A, pp. 23-24.

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 AHR requested a hearing disputing the MA coverage for both himself and his son, the Petitioner.

On [REDACTED], the Michigan Administrative Hearing System (MAHS) sent two Notice of Hearings notifying them that they have two hearings scheduled at the same time on [REDACTED].

On [REDACTED], the AHR was present for the hearing to represent both himself and the Petitioner. The undersigned consolidated both scheduled hearings and held one administrative hearing. However, the undersigned issued two separate hearing decisions as each case had different outcomes. The undersigned addresses only the Petitioner's case below. A separate decision was issued regarding the AHR (See Reg. No. 15-024152).

ESO coverage

In this case, Petitioner's AHR requested a hearing disputing the 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 the present case, it was not disputed that Petitioner is eligible for full coverage MA because he is a U.S. citizen. See Exhibit A, p. 4.

At one point, Petitioner received only ESO MA coverage; however, Petitioner's ESO MA coverage was converted to full MA coverage for April 2014, ongoing. See Exhibit A, pp. 16-18. However, though, the evidence was unclear if Petitioner received full MA coverage for January 2014 to March 2014. See Exhibit A, pp. 18-20. One of the sections of the Petitioner's Medicaid Eligibility for the period of January 2014 to March 2014 indicated that he was an "Alien limited to emergency medical coverage." See Exhibit A, pp. 18-20. The undersigned finds this section to be improper as Petitioner is eligible for full MA coverage.

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 January 2014 to March 2014. Yes, the Department initially approved Petitioner for only ESO coverage. However, the Department updated all benefit periods that previously had ESO coverage and provided Petitioner with full MA coverage from April 2014, ongoing. See Exhibit A, pp. 1 and 16-18. As such, the Department properly determined that Petitioner was eligible for full-coverage MA for April 2014, ongoing.

As to the period of January 2014 to March 2014, the evidence was unclear if Petitioner received full coverage MA. See Exhibit A, pp. 18-20. As such, the Department will redetermine Petitioner's MA eligibility for January 2014 to March 2014.

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 (i) did not properly determine Petitioner's immigration status or citizenship when determining MA eligibility for January 2014 to March 2014; and (ii) did properly determine Petitioner's immigration status or citizenship when determining MA eligibility for April 2014, ongoing.

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 April 2014, ongoing, and **REVERSED IN PART** with respect to Petitioner's eligibility from January 2014 to March 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 MA eligibility from January 2014 to March 2014 in accordance with Department policy.
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: **FEBRUARY 22, 2016**

Date Mailed: **FEBRUARY 22, 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:

