



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: March 4, 2016  
MAHS Docket No.: 15-024429  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Colleen Lack

### **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 February 2, 2016<sup>1</sup>, from Lansing, Michigan. [REDACTED] the Petitioner, appeared on his own behalf. The Department was represented by [REDACTED] Eligibility Specialist. [REDACTED] [REDACTED] provided interpretation services.

The Department's Hearing Summary Packet for Petitioner's case was admitted as Department Exhibit A, pp. 1-20.

The Department's Hearing Summary Packet for Petitioner's wife's case was admitted as Department Exhibit B, pp. 1-22.

### **ISSUE**

Did the Department properly determine Petitioner's immigration status or citizenship when determining Medicaid (MA) eligibility?

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<sup>1</sup> The Petitioner's case was held in conjunction with 15-022015. The Petitioners in both cases are spouses and the appeals involved the same case action.

### **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 February 17, 2015, Petitioner applied for MA. (Department Exhibit A, pp. 4-16)
2. On the February 17, 2015, MA application, it was marked that Petitioner was not a United States citizen but did have eligible immigration status. (Department Exhibit A, p. 7)
3. Petitioner's application was initially approved for Emergency Services Only (ESO) MA coverage. (Department Exhibit A, p. 1)
4. On August 31, 2015, Petitioner filed a hearing request contesting the Department's determination. (Department Exhibit A, p. 2)
5. On March 3, 2015, the Department requested verification of citizenship. (Department Exhibit B, pp. 19-20)
6. On January 15, 2016, a Benefit Notice was issued to Petitioner stating he was eligible for full Medicaid coverage for February 2015, March 2015, April 2015, and November 2015, through current. (Department Exhibit A, pp. 19-20)

### **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 requested a hearing disputing the denial of full MA coverage. (Department Exhibit A, p. 2)

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 (October 1, 2014), p. 2.

For MA, an individual under specific immigration statuses is limited to emergency services for the first five years in the U.S. (BEM 225, pp. 7-8)

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 open and coverage entered in Bridges, verification of citizenship must be completed. Attempt to verify citizenship through a data match such as the Social Security Administration or a DCH vital records match. MAGI related applicants will have citizenship and identity verified if the application comes to DHS via the Federally Facilitated Marketplace (FFM) or MAGI rules engine. If there is a discrepancy with the information or it is not available then contact with the beneficiary is necessary; see BEM 221 and 225. Allow the beneficiary 90 days to provide the required verifications. If no documentation is provided at the end of the 90 days, the beneficiary should be disenrolled from Medicaid within 30 days. Beneficiaries must be notified of the pending closure and the reason for the closure. If documentation is received prior to the closure date the coverage must continue. BAM 130, (October 1, 2014), p. 4.

On February 17, 2015, Petitioner applied for MA. (Department Exhibit A, pp. 4-16) On the MA application, it was marked that Petitioner was not a United States citizen but did have eligible immigration status. (Department Exhibit A, p. 7)

Petitioner's application was initially approved for Emergency Services Only (ESO) MA coverage. (Department Exhibit A, p. 1)

The evidence indicates the Department did not request verification of citizenship until a March 3, 2015, Verification Checklist was issued. (Department Exhibit B, pp. 19-20) It appears that after the hearing request was filed, the Department intended to subsequently approve full MA coverage starting February 2015 as a verification period. The Department's hearing summary, in part, states that the Department "has updated all benefit periods that previously had Emergency Services Only (ESO) coverage to full MA coverage." (Department Exhibit A, p. 1) Yet, on January 15, 2016, a Benefit Notice was issued to Petitioner stating he was eligible for full Medicaid coverage specifying the months of February 2015, March 2015, April 2015, and November 2015, through current. (Department Exhibit A, pp. 19-20)

The December 22, 2015, Bridges Medicaid Eligibility print out included in the Department's Exhibits, shows Petitioner has Healthy Michigan Plan (HMP) coverage for February 2015 through November 2015 as well as starting December 1, 2015 with no end date. The citizenship codes indicate a mixture of "alien limited to emergency medical coverage", "permanent resident alien" and "US citizen" during this time period. There is an override marked as "Y" for February 2015 through November 2015, but not for the period starting December 1, 2015, with no end date. (Department Exhibit A, pp. 17-18) Overall, it is not clear that the Department has properly updated Petitioner's MA eligibility based on citizenship status.

The evidence also indicates that the request for citizenship verification, and potentially the determination of the period full MA coverage would be approved for as a verification period, was not in accordance with policy. The March 3, 2015, Verification Checklist only allowed 10 days for this verification to be provided, rather than the 90 days stated in the above cited BAM 130 policy. Additionally, it is not clear from this Verification Checklist that proof of Petitioner's citizenship was needed. The Verification Checklist was issued to Petitioner's first name and an incorrect last name. Additionally, the Verification Checklist does not specify whose citizenship verification is needed, and there were four persons included on the February 17, 2015, MA application. (Department Exhibit A, pp. 4-16; Department Exhibit B, pp. 19-20)

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 not properly determine 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 **REVERSED**.

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



CL/mc

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**Colleen Lack**  
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]

**Petitioner**

[REDACTED]