



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
Christopher Seppanen  
Executive Director

MIKE ZIMMER  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: March 18, 2016  
MAHS Docket No.: 15-024605  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Alice C. Elkin**

### **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 via 4-way telephone conference on March 9, 2016, from Detroit, Michigan. Petitioner was represented by Yesim Habib, her husband and authorized hearing representative (AHR). The Department was represented by [REDACTED], Eligibility Specialist. [REDACTED] initially appeared to serve as translator ([REDACTED]) but was dismissed when the AHR indicated that he spoke fluent English and did not need translator services.

### **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 February 20, 2014, Petitioner applied for MA (Exhibit A, pp. 5-14).
2. On the date of MA application, Petitioner was not a United States citizen.

3. On January 28, 2015, the Department sent Petitioner a Health Care Coverage Determination Notice approving her for Emergency Services Only (ESO) MA coverage for February 1, 2015 ongoing (Exhibit A, pp. 20-21).
4. On an unknown date, the Department issued a notice to Petitioner indicating she may have been denied full MA coverage between January 2014 and May 2015 based on immigration status.
5. On September 14, 2015, Petitioner requested a hearing (Exhibit A, p. 2).

### **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 Department granting her 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 (October 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. Persons refusing to provide citizen/alien status information on the application or unable or refusing to provide satisfactory verification of alien information are limited to ESO coverage. BEM 225, p. 3. The alien status of each non-citizen must be verified to be eligible for full MA coverage. BEM 225, p. 2.

When an applicant for MA claims to be a U.S. citizen or to have qualified immigration status, and all other eligibility factors are satisfied, the Department must certify benefits.

BAM 130 (October 2014), p. 4. Once the case has been open and coverage entered on the Department's system, verification must be completed. BAM 130, p. 4.

In this case, Petitioner applied for MA in February 20, 2014 indicating that she had eligible alien status. The Department sent her a verification checklist (VCL) on February 20, 2014 requesting verification of her alien status (Exhibit A, pp. 17-19). According to the Department, Petitioner did not respond to the VCL, and, as a result, she was limited to ESO MA coverage for January 2014 and February 2014. However, because Petitioner had indicated that she had eligible immigration status, under Department policy, the Department should have approved her for the MA program she would be eligible for as a qualified alien pending receipt of the verification. Therefore, the Department did not act in accordance with Department policy when it failed to approve Petitioner for full-coverage MA for January 2014 and February 2014.

Even though the January 20, 2015 Health Care Coverage Determination Notice notified Petitioner that she was eligible for ESO from February 1, 2015 ongoing, the Department provided a Medicaid eligibility summary that showed that Petitioner received full coverage MA beginning March 1, 2014 and that this coverage continued through July 31, 2015. The eligibility summary does not show any MA coverage between August 1, 2015 and December 31, 2015. Petitioner was again eligible for MA in January 2016. She received full coverage MA in January 2016 but her coverage was converted to ESO beginning February 2016. In explaining Petitioner's ongoing coverage, the Department testified that it determined that Petitioner was not eligible for full-coverage MA based on information retrieved and verified by the Department from its SAVE (Systematic Alien Verification for Entitlements) system. The Department may verify lawful presence using SAVE. BAM 130, p. 4.

The Department testified that its SAVE search indicated that Petitioner was a permanent resident alien with a June 2012 date of entry. There was no RE, AM or AS class code for Petitioner. The Department further testified that it was not aware of either Petitioner or the AHR being in the U.S. military. The AHR confirmed that Petitioner was a permanent resident alien with a June 2012 date of entry, and neither she nor he had served in the U.S. military. Because Petitioner was not a permanent resident alien for 5 or more years and did not have an eligible class code on her permanent residency card and neither she nor the AHR had served in the U.S. military, Petitioner was not eligible for full-coverage MA. Therefore, the Department properly converted her MA coverage back to ESO coverage effective February 1, 2016.

On the record, the AHR indicated that Petitioner was applying for U.S. citizenship. He was advised to notify the Department when citizenship was granted so that her MA eligibility could be reassessed.

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 **only for January 2014 and February 2014.**

**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 for January 2014 and February 2014 in accordance with Department policy.
2. Notify Petitioner in writing of the Department's new MA eligibility determination.



ACE/tlf

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**Alice C. Elkin**  
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]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**Authorized Hearing Rep.**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

via electronic mail:

[REDACTED]