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GOVERNOR

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

MIKE ZIMMER
DIRECTOR

██████████
**26318 WOLVERINE STREET
MADISON HEIGHTS, MI 48071**

Date Mailed: March 1, 2016
MAHS Docket No.: 15-024667
Agency No.: ██████████
Petitioner: ██████████

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 29, 2016, from Detroit, Michigan. The Petitioner was represented by ██████████ Petitioner, and her husband, ██████████. The Department was represented by Dawn McCoy, Hearings Facilitator.

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 ██████████ 2015, Petitioner applied for MA benefits. See Exhibit A, pp. 5-15.
2. On the date of MA application, Petitioner was not a United States citizen, but she had been permanent resident alien who had resided in the U.S. for five or more years. See Exhibit A, pp. 7 and 21.

3. On an unspecified date, Petitioner received only Emergency Services Only (ESO) MA coverage; however, Petitioner's ESO MA coverage was converted to full MA coverage for January 2015, ongoing. See Exhibit A, pp. 16-18 (Medicaid Eligibility).
4. On September 3, 2015, Petitioner requested a hearing. See Exhibit A, p. 2.
5. On January 8, 2016, the Department sent Petitioner a Benefit Notice notifying her that she is eligible for full coverage from January 2015, ongoing. See 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 her 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 but she has been a permanent resident alien who had resided in the U.S. for five or more years. See Exhibit A, pp. 7 and 21. In fact, the evidence record established that Petitioner has been a permanent resident for 5 years as of March 1, 2014. See Exhibit A, pp. 1 and 21. The Department presented Petitioner's Medicaid Eligibility, which showed that she received full coverage MA from January 2015, ongoing. See Exhibit A, pp. 16-18.

Based on the foregoing information and evidence, along with both parties' testimony, the Department properly determined Petitioner's immigration status when determining MA eligibility. 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 January 2015, ongoing. See Exhibit A, pp. 1 and 16-18. As such, the Department properly determined that Petitioner was eligible for full-coverage MA. It should be noted that Petitioner did not have any active MA coverage for the period of October 2013 to December 2014. See Exhibit A, p. 17.

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 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**.

EF/hw



Eric Feldman

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

Katharine Sedgman (SSPC)
2651 Coolidge Rd, Suite 100
East Lansing, MI 48823

Petitioner

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