



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]
[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: March 18, 2016
MAHS Docket Nos.: 15-024697;
15-024692; 15-024696; 15-024693
Agency No.: [REDACTED]
Petitioners: [REDACTED]

[REDACTED]
[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. The hearings were consolidated for Petitioner [REDACTED], registration no. 15-024687 and her husband, Petitioner [REDACTED], registration no. 15-024692, and their two minor children: [REDACTED], registration no. 15-024696, and [REDACTED], registration no. 15-024693. The household was represented by Petitioner [REDACTED]. The Department was represented by [REDACTED], Eligibility Specialist. [REDACTED] served as translator ([REDACTED]) 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 December 14, 2014, Petitioners applied for MA benefits (Exhibit A, pp. 5-22; Exhibit B, pp. 4-16; Exhibit C, pp. 4-16; Exhibit D, pp. 4-16).
2. Petitioners are not United States citizens.
3. Petitioners ██████ and ██████ were approved for Emergency Services Only (ESO) MA coverage from April 1, 2015 ongoing (Exhibit A, pp. 20-22; Exhibit B, pp. 20-22). Their children, Petitioners ██████ and ██████ were approved for ESO coverage from July 1, 2013 ongoing (Exhibit C, pp. 22-23; Exhibit D, pp. 22-23).
4. On an unknown date, the Department issued a notice to Petitioners indicating they may have been denied full MA coverage based on immigration status between January 2014 and May 2015.
5. On September 14, 2015, Petitioners requested hearings.

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, Petitioners requested hearings disputing the Department granting them 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 (January 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. The alien status of each non-citizen must be verified to be eligible for full MA coverage. BEM 225, p. 2.

In this case, the Department testified that after Petitioners filed their hearing requests, it reassessed their MA eligibility. Because Petitioners did not identify a date of entry on their application, the Department testified that it converted coverage for all Petitioners to full coverage. In support of its testimony, the Department provided Benefit Notices it sent on January 14, 2016 to Petitioner [REDACTED] notifying her that she was approved for full coverage MA from May 2014 to January 2016; to Petitioner [REDACTED] notifying him that he was approved for full coverage MA from September 2014 to January 2016; and to Petitioners [REDACTED] and [REDACTED] notifying them that they were approved for full coverage MA from January 2014 to January 2016 (Exhibit A, pp. 23-24; Exhibit B, pp. 23-24; Exhibit C, pp. 25-26; Exhibit D, pp. 25-26). The Department also provided a Medicaid eligibility chart showing monthly coverage for each Petitioner that showed full-coverage MA consistent with the Benefit Notices (Exhibit A, pp. 17-19; Exhibit B, pp. 17-19; Exhibit C, pp. 17-21; Exhibit D, pp. 17-21).

The Department explained that, effective February 1, 2016, the MA coverage for all Petitioners converted back to ESO because none of them met the eligibility requirements for full coverage MA. The Department testified that it retrieved information from its SAVE (Systematic Alien Verification for Entitlements) system to verify the immigration status of Petitioners. When an applicant for MA claims to have qualified immigrant status, and all other eligibility factors are satisfied, the Department must open the case and then attempt to verify lawful presence using sources available to the State, such as SAVE, before requesting documentation from the client. BAM 130 (January 2016), p. 4.

The Department testified that its SAVE search indicated that Petitioners were permanent resident aliens with a June 17, 2012 date of entry. There was no RE, AM or AS class code for any of the Petitioners. The Department further testified that it was not aware of either Petitioner [REDACTED] or Petitioner [REDACTED] being in the U.S. military. Petitioner [REDACTED] confirmed that all Petitioners were permanent resident aliens with a June 2012 date of entry and neither she nor her husband had served in the U.S. military. Because Petitioners were not permanent resident aliens for 5 or more years, and did not have eligible class category on their permanent residency cards and neither Petitioner [REDACTED] nor Petitioner [REDACTED] had served in the U.S. military, none of the Petitioners were eligible for full-coverage MA. Therefore, the Department properly converted their MA coverage back to ESO coverage effective February 1, 2016.

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 properly determined 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**.



ACE/tlf

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]
[REDACTED]
[REDACTED]
[REDACTED]

via electronic mail

[REDACTED]