



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 2, 2016
MAHS Docket No.: 15-024773
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Susanne E. Harris

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 March 1, 2016, from Lansing, Michigan. The Petitioner, [REDACTED], appeared and testified. The Department was represented by Eligibility Specialist, [REDACTED].

ISSUE

Did the Department properly determine the Petitioner's and the Petitioner's wife'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. The Petitioner and his wife had been ongoing recipients of full MA benefits for several years previous.
2. On December 27, 2014, the Petitioner and his wife applied for MA, attesting that they were US citizens.

3. On June 23, 2014, the Petitioner's submitted a federally facilitated marketplace application to transfer and on this application attested that they were not US citizens.
4. At all times relevant to this case, the Petitioner and his wife were United States citizens.
5. Based on both hearing summaries and evidence, it is unclear exactly when it was that the Petitioner's full-coverage MA case and/or application was converted to and approved for Emergency Services Only (ESO) MA coverage. As such, the Petitioners were denied full MA coverage.
6. On September 8, 2015, the Petitioner requested a hearing.

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, the Petitioner requested a hearing disputing the conversion to ESO MA and denial of full MA coverage. The uncontested testimony during the hearing was that the Petitioner and his wife now have full MA because they are citizens and have been in this country since 1979. The evidence in the record indicates that the Petitioners have previously received full MA in 2013. As such, it is not at all likely that the Petitioners lost citizenship while still residing in the country. Furthermore, there is a discrepancy regarding citizenship in the applications and evidence. Bridges Administrative Manual 130 (2015) provides that the Department's worker shall give the Petitioners an opportunity to resolve any discrepancies in their statements before determining eligibility. Also, and especially as the Petitioners have been eligible for full MA previously, the Department should have some form of verification of residency on file for the Petitioners. At a minimum, in this case, the Petitioner should have had an opportunity to re-verify their residency status before the Department's eligibility determination.

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 (2015), pp. 2, 3. The

Petitioner testified that he and his wife are US citizens. At the time of application or redetermination, the Petitioner and his wife's status was US citizens.

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 the Petitioner and his wife'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 for the months between January 2014 and September 2015.
2. Notify Petitioner in writing of the Department's new MA eligibility determination.



SH/nr

Susanne E. Harris
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]