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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

[REDACTED]

Date Mailed: April 8, 2016
MAHS Docket No.: 15-025246
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 conference hearing was held on April 6, 2016, from Lansing, Michigan. Petitioner participated in the hearing via telephone and provided testimony. The Department was represented by [REDACTED] (Eligibility Specialist). [REDACTED] ([REDACTED] # [REDACTED]) served as an Arabic translator during the first portion of the hearing until the telephone connection was disconnected. [REDACTED] ([REDACTED] # [REDACTED]) provided translation during the remainder of the hearing.

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 December 28, 2013, Petitioner entered the United States.
2. Effective August 19, 2014, Petitioner was authorized for employment in the U.S. [Exhibit 1, p. 22].

3. On July 7, 2014, Petitioner applied for MA benefits. [Exh. 1, pp. 5-16].
4. On the date of MA application, the Petitioner had applied to become a permanent resident. [Exh. 1, p. 8].
5. Beginning October 1, 2014 ongoing, the Department approved Petitioner's MA application for Emergency Services Only (ESO) MA coverage. [Exh. 1, pp. 19-21].
6. In August, 2015, the Department issued a notice to the Petitioner indicating that she may have been denied full MA coverage based on immigration status between January 2014 and May 2015.
7. On or about September 6, 2015, Petitioner requested a hearing to dispute the decision to approve the application for MA ESO rather than full MA coverage. [Exh. 1, 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), 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 activation of ESO MA coverage. The Department contends that Petitioner was only eligible for ESO MA at the time of application.

Policy requires the Department determine the alien status of each non-citizen requesting benefits at application, member addition, redetermination and when a change is reported. BEM 225 (1-1-2014), p. 1.

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, p. 2. The alien status of each non-citizen must be verified to be eligible for full MA coverage. BEM 225, p. 2.

A person claiming U.S. citizenship is not eligible for ESO coverage. BEM 225, p. 2. U.S. citizenship must be verified with an acceptable document to continue to receive Medicaid. BEM 225, p. 2. Citizenship/alien status is not an eligibility factor for

emergency services only (ESO) MA. However, the person must meet all other eligibility factors, including residency. BEM 225, p. 2.

MA coverage is limited to emergency services for any: (1) persons with certain alien statuses or U.S. entry dates as specified in policy; (2) persons refusing to provide citizenship/alien status information on the application; and/or (3) persons unable or refusing to provide satisfactory verification of alien information. BEM 225, p. 3. All other eligibility requirements including residency **must** be met even when MA coverage is limited to emergency services. BEM 225, p. 3.

Persons listed under the program designations in Acceptable Status meet the requirement of citizenship/alien status. Eligibility may depend on whether or not the person meets the definition of Qualified Alien. BEM 225, p. 3.

"Qualified alien" means an alien who is a legal permanent resident spouse or parent, or by a member of the spouse or parent's family living in the same household, or is the parent or child of a battered person. BEM 225, p. 4. **An individual is limited to emergency services for the first five years in the U.S. BEM 225, p. 8. [Emphasis added].**

In this case, the narrow issue before the Administrative Law Judge concerns the Department's processing of Petitioner's MA coverage based on immigration status between January 2014 and May 2015. During the hearing, Petitioner credibly testified that she entered the U.S. from Iraq on December 28, 2013. The record shows that at the time of application, Petitioner was married to a U.S. citizen. [Exh 1, p. 6]. At time of application, Petitioner's was a resident alien as she had not established permanent residency as she had only applied to become a permanent resident. [Exh. 1, p. 8]. According to BEM 225, page 8, Petitioner was eligible for ESO MA benefits because she had been in the U.S. for less than five years.

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**.



CP/las

C. Adam Purnell
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



Petitioner

