



RICK SNYDER  
GOVERNOR

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

MIKE ZIMMER  
DIRECTOR



Date Mailed: April 18, 2016  
MAHS Docket No.: 15-025314  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Colleen Lack

### **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 23, 2016<sup>1</sup>, from Lansing, Michigan. The Petitioner was represented by [REDACTED], brother and Authorized Hearing Representative. [REDACTED], the Petitioner, appeared and testified. The Department was represented by [REDACTED], Eligibility Specialist. [REDACTED] also provided interpretation services during the hearing.

During the hearing proceedings, the Department's Hearing Summary packet for Petitioner's case was admitted as Department Exhibit B, pp. 1-25. The Department's Hearing Summary packet for Petitioner's family members cases were admitted as Department Exhibit A, pp. 1-23, Department Exhibit C, pp. 1-26, and Department Exhibit D, pp; 1-24.

### **ISSUE**

Did the Department properly determine Petitioner's immigration status or citizenship when determining Medicaid (MA) eligibility?

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<sup>1</sup> The Petitioner's case was held in conjunction with 15-025313, 15-025315, and 15-025316. The Petitioners in all four cases are family members and the appeals involved the same types of case actions.

### **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 8, 2015, Petitioner applied for MA. (Department Exhibit B, pp. 5-18)
2. On the February 8, 2015, MA application, it was marked that Petitioner was a citizen or had eligible immigration status. (Department Exhibit B, p. 7)
3. Petitioner has been a permanent resident since December 19, 2014. (Exhibit B, p. 25)
4. Petitioner's application was initially approved for Emergency Services Only (ESO) MA coverage. (Department Exhibit B, pp. 21-22)
5. On September 8, 2015, Petitioner filed a hearing request contesting the Department's determination. (Department Exhibit B, p. 2)
6. The Department subsequently approved full MA coverage for February 2015 through March 2016 as a verification period. (Department Exhibit B, pp. 19-20)
7. On February 22, 2016, a Benefit Notice was issued to Petitioner stating he was eligible for full Medicaid coverage from February 2015 through March 2016. (Department Exhibit B, pp. 23-24)

### **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 denial of full MA coverage. (Department Exhibit B, p. 2)

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 (October 1, 2014), p. 2.

For MA, an individual under specific immigration statuses is limited to emergency services for the first five years in the U.S. (BEM 225, pp. 7-8)

When an applicant for Medicaid claims to be a U.S. citizen or to have qualified immigrant status, and all other eligibility factors are met, certify benefits. Once the case has been open and coverage entered in Bridges, verification of citizenship must be completed. Attempt to verify citizenship through a data match such as the Social Security Administration or a DCH vital records match. MAGI- related applicants will have citizenship and identity verified if the application comes to DHS via the Federally Facilitated Marketplace (FFM) or MAGI rules engine. If there is a discrepancy with the information or it is not available then contact with the beneficiary is necessary; see BEM 221 and 225. BAM 130, (October 1, 2014), p. 4.

As noted during the telephone hearing proceedings, it is not disputed that Petitioner's family is here legally. Rather, the Department was determining whether Petitioner's family met the immigration status or citizenship requirements for MA eligibility found in BEM 225.

On February 8, 2015, Petitioner applied for MA. (Department Exhibit B, pp. 5-18) Petitioner's application was initially approved for Emergency Services Only (ESO) MA coverage. (Department Exhibit B, pp. 21-22)

The Department reviewed the case and determined that Petitioner was not eligible for full MA coverage during the relevant time period because he did not meet immigration status or citizenship requirements found in BEM 225. For example, Petitioner was not a citizen and had not been a permanent resident for five years. Petitioner has only been a permanent resident since December 19, 2014. (Exhibit B, p. 25)

However, on the February 8, 2015, MA application, it was marked that Petitioner was a citizen or had eligible immigration status. (Department Exhibit B, p. 7) Accordingly, the BAM 130 policy allowing for full MA coverage to be certified pending verification should have been applied when Petitioner's application was initially processed.

The Department subsequently approved full MA coverage for February 2015 through March 2016 as a verification period. (Department Exhibit B, pp. 19-20) On February 22, 2016, a Benefit Notice was issued to Petitioner stating he was eligible for full Medicaid coverage from February 2015 through March 2016. (Department Exhibit B, pp. 23-24).

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 has already updated their determination about MA eligibility based on Petitioner's immigration status for the relevant time period to full MA coverage.

**DECISION AND ORDER**

Accordingly, the Department's determination about MA eligibility based on immigration status is **AFFIRMED**.

CL/mc



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**Colleen Lack**  
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]

**Petitioner**

[REDACTED]

**Authorized Hearing Rep.**

[REDACTED]