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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 6, 2016
MAHS Docket No.: 15-025349
MAHS Docket No.: 15-025350
MAHS Docket No.: 15-025352
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 4-way telephone hearing was held on April 4, 2016, from Detroit, Michigan. The Petitioners were represented by [REDACTED], the Petitioners' Authorized Hearing Representative (AHR). Petitioner [REDACTED] appeared. [REDACTED], his wife, and [REDACTED], a minor child, did not appear but were also represented by [REDACTED] and [REDACTED]. The Department was represented by [REDACTED], Eligibility Specialist. [REDACTED] served as translator as needed during the hearing.

ISSUE

Did the Department properly determine Petitioners' [REDACTED], [REDACTED] and [REDACTED] immigration status or citizenship when determining Medical Assistance (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 April 16, 2015, Petitioners applied for MA benefits. Exhibit 1.

2. The Petitioners are in the same MA group; [REDACTED] and [REDACTED] are husband and wife; and [REDACTED] is their minor child.
3. On the date of MA application, Petitioners were not United States (U.S.) citizens.
4. The Petitioners all became permanent residents of the U.S. on February 23, 2015. Exhibit 2 [REDACTED] Exhibit 1 [REDACTED] Exhibit 1, [REDACTED] At the time of the application for MA, Petitioners had not been permanent residents for five (5) years.
5. The Department issued a Health Care Coverage Determination Notice on April 17, 2015, finding all three (3) Petitioners eligible for Emergency Services Only (ESO) MA based upon their immigration status. Exhibit 3, One Health Care Coverage Determination Notice, was issued for all three (3) Petitioners. The Notice correctly determined eligibility for ESO MA but did not state the correct reason why ESO eligibility was determined for the Petitioners.
6. On an unknown date, the Department issued notices to the Petitioners indicating they might have been denied full MA coverage based on immigration status between January 2014 and May 2015.
7. On September 3, 2015, Petitioners 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, Petitioners requested a hearing disputing the Department's determination that he and his wife [REDACTED] and son [REDACTED] were not eligible for full MA.

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 (January 2014), p. 2. Petitioner [REDACTED] testified that he, his wife and son are not U.S. citizens; and all Petitioners have been permanent residents since February 23, 2014. At the time of application on April 16, 2015, Petitioner [REDACTED] and his family member status was

permanent residents as of February 23, 2014. Exhibit 2 [REDACTED] Exhibit 1 [REDACTED]
Exhibit 1, [REDACTED]

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. Non-citizens receiving ESO MA do not have to verify alien status. BEM 225, p. 20. A person who is unable to obtain verification of alien status or refuses to cooperate in obtaining it is limited to ESO until verification is obtained. BEM 225, p. 20.

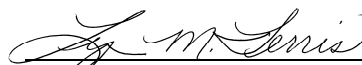
Thus, based on the evidence presented, the verification of immigration status for Petitioners, all who are permanent residents with less than five (5) years residency in the U.S., it is determined that the Department properly determined the Petitioners were not eligible for full MA coverage at the time of their application, April 16, 2015. Although the Department's Health Care Coverage Determination Notice issued on April 17, 2015, did not state the correct reason why the Petitioners were eligible for ESO MA only, the error is harmless error as the Petitioners were only eligible for ESO based upon the verifications provided to the Department at the time of its denial of the MA application.

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 Petitioners' 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.**

LMF/jaf



Lynn M. Ferris
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]

Authorized Hearing Rep.

[REDACTED]

Petitioner

[REDACTED]

CC:

[REDACTED]