



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR



Date Mailed: May 2, 2016
MAHS Docket No.: 15-025706
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Darryl Johnson

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 April 27, 2016, from Lansing, Michigan. The Petitioner was represented by his father, [REDACTED]. The Department was represented by Eligibility Specialist [REDACTED]. [REDACTED] served as [REDACTED] translator during 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 September 18, 2014 Petitioner's father applied for MA benefits.
2. On the date of MA application or redetermination, Petitioner was not a United States citizen. Petitioner was admitted to the United States on a lottery visa.

3. Beginning June 1, 2014, Petitioner's application was approved for Emergency Services Only (ESO) MA coverage.
4. In August 2015, the Department issued a notice to the Petitioner indicating he might have been denied full MA coverage based on immigration status between January 2014 and May 2015.
5. On August 25, 2015, Petitioner requested a hearing.
6. In a Benefit Notice dated December 1, 2015, the Department advised Petitioner that he was granted full MA coverage from June 2014 through November 2015.
7. The Department subsequently updated the coverage to ESO after it determined that Petitioner had only been a resident since September 2014, although it did not submit any documentation showing when that update occurred.

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.

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. At time of application or redetermination, Petitioner's status was permanent resident. For MA, an individual is limited to emergency services for the first five years in the U.S. BEM 225, p. 8.

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:

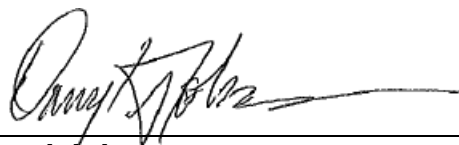
- a. Lawfully admitted for **permanent residence** under the INA. BEM 225, p. 4 (Emphasis added).
- b. Granted asylum under Section 208 of the INA.
- c. A **refugee** who is admitted to the U.S. under Section 207 of the INA; this includes Iraqi and Afghan special immigrants. BEM 225, p. 4 (Emphasis added).
- d. **Paroled** into the U.S. under Section 212(d)(5) of the INA for a period of at least one year. BEM 225, p. 4 (Emphasis added).
- e. An alien whose deportation is being **withheld** under Section 241(b)(3) or 243(h) of the INA. BEM 225, p. 4 (Emphasis added).
- f. Granted **conditional entry** pursuant to Section 203(a)(7) of the INA. BEM 225, p. 4 (Emphasis added).
- g. A **Cuban/Haitian** entrant, or an alien who has been **battered** or subjected to **extreme cruelty** in the U.S. by a U.S. citizen. BEM 225, p. 4 (Emphasis added).
- h. 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 (Emphasis added).

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 when determining MA eligibility. Petitioner had not been in the U.S. for five years and was eligible for ESO and not full MA.

DECISION AND ORDER

Accordingly, the Department’s initial determination about MA eligibility based on immigration status, by which it granted Petitioner ESO, is **AFFIRMED**.

DJ/mc



Darryl Johnson
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]

Authorized Hearing Rep.

[REDACTED]

Petitioner

[REDACTED]