



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: May 20, 2016  
MAHS Docket No.: 15-026359  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Alice C. Elkin**

**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 via three-way telephone conference on May 16, 2016, from Detroit, Michigan. Petitioner, a minor child, was represented by [REDACTED] [REDACTED], her sister and authorized hearing representative (AHR). The Department was represented by [REDACTED], Eligibility Specialist.

**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 January 7, 2011, Petitioner applied for MA (Exhibit A, pp. 5-13).
2. On the date of MA application or redetermination, Petitioner was not a United States citizen.

3. The Department approved Petitioner for Emergency Services Only (ESO) MA coverage (Exhibit A, pp. 24-28).
4. On an unknown date, the Department issued a notice to Petitioner indicating she may have been denied full MA coverage based on immigration status between January 2014 and May 2015.
5. On August 31, 2015, Petitioner requested a hearing (Exhibit A, 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), 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 Department granting her ESO MA rather than full-coverage MA. To be eligible for full-coverage MA, 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. 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.

In this case, the Department relied on Petitioner's permanent residency card in determining her MA coverage. The card showed that Petitioner had entered the U.S. from [REDACTED] on November 19, 2010 with a category F22 (Exhibit A, p. 14). Because Petitioner's permanent residency card did not show a class code of RE, AM, or

AS and the Department did not have reason to believe that Petitioner's parents served in the US military, Petitioner was eligible for full coverage MA only after residing in the U.S. five or more years. The Department acknowledged that, based on the November 19, 2010 date of her U.S. residency, Petitioner was eligible for full coverage MA beginning November 2015 and testified that it had activated full-coverage MA for Petitioner effective November 1, 2015. The Department explained that additional months of full-coverage MA for months prior to November 2015 had been activated even though Petitioner had not been eligible to receive full-coverage MA until November 1, 2015. In support of its testimony, the Department presented a Medicaid eligibility chart showing full coverage MA for Petitioner beginning March 1, 2015 ongoing (Exhibit A, pp. 15-23) and Health Care Coverage Determination Notices dated January 13, 2016 and March 28, 2016 notifying Petitioner that she was eligible for full coverage MA from March 1, 2015 ongoing (Exhibit A, pp. 29-34). The evidence presented was sufficient to establish that Petitioner was eligible for, and received, full coverage MA from November 1, 2015 ongoing.

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 or citizenship when determining MA eligibility.

### **DECISION AND ORDER**

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



ACE/tlf

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**Alice C. Elkin**

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

[REDACTED]

[REDACTED]

[REDACTED]

[REDACTED]

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