



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

[REDACTED]

Date Mailed: June 15, 2016  
MAHS Docket No.: 15-026812  
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 three-way telephone hearing was held on [REDACTED], from Detroit, Michigan. The Petitioner was represented by [REDACTED], the Petitioner's Authorized Hearing Representative (AHR) and mother. 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 [REDACTED], Petitioner [REDACTED] applied for MA benefits. On the MA application, the Petitioner did not mark that he had eligible immigration status. Exhibit 2.

2. On the date of MA application or redetermination, Petitioner was not a United States (U.S.) citizen.
3. The Petitioner entered the U.S. as a permanent resident on [REDACTED]. At the time of the MA application on [REDACTED], the Petitioner had not been in the U.S. for five (5) years.
4. On [REDACTED], the Department issued a benefit notice advising the Petitioner that he was eligible for Emergency Services Only (ESO) [REDACTED] ongoing. Exhibit 2.
5. On [REDACTED], the Department issued a Health Care Coverage Determination Notice finding the Petitioner eligible for ESO [REDACTED], ongoing. Exhibit 3.
6. On a date unknown, the Department issued a notice to the Petitioner indicating he/she might have been denied full MA coverage based on immigration status between [REDACTED] and [REDACTED].
7. As of [REDACTED], the Petitioner's MA group was converted back to ESO MA. In the interim, for the period [REDACTED], through [REDACTED], the Department gave the Petitioner full coverage MA. Exhibit 4.
8. On [REDACTED], Petitioner 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, Petitioner requested a hearing disputing the Department granting him 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 Petitioner's AHR credibly testified that the Petitioner had a U.S. date of entry of [REDACTED], as a permanent resident on his green card. Exhibit 1.

The Department testified that after Petitioner filed a hearing request, it reassessed the MA eligibility. The Petitioner's statements in his MA application advised the Department that he was not a U.S. citizen, was born in [REDACTED] and left blank his immigration number in answer to the question if you are documented alien, what is your date of entry. Exhibit 2, p. 6. Apparently, the Department based on the Application, reassessed the Petitioner's MA eligibility and activated full-coverage MA for Petitioner for the period [REDACTED], through [REDACTED], based upon Medicaid Eligibility Summary provided at the hearing. Exhibit 4. No benefit notice activating full coverage was provided as part of the hearing packet.

Thereafter, on [REDACTED], the Department sent a Health Care Coverage Determination Notice, which determined the Petitioner was eligible for ESO MA. Exhibit 4. The Department decided administratively to make the change to full coverage MA, but its decision was not based on the Petitioner's immigration status.

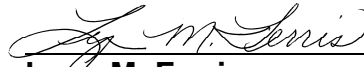
The only issue presented is whether coverage was properly converted back to ESO. The evidence presented by the Department, from its Bridges System and the Petitioner's testimony, established that Petitioner, had entered the U.S. on [REDACTED]. There was no eligible asylum or refugee status identified as evidence presented regarding the permanent residency card. Further, there was no evidence in the application that Petitioner or her husband had served in the U.S. military or was the spouse of a service person. Because Petitioner has not been a resident alien for five (5) years, had not served in the U.S. military, and did not have asylum or refugee status, Petitioner was not eligible for full-coverage MA. Therefore, the Department properly converted the Petitioner's MA coverage to ESO coverage effective [REDACTED].

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**.

LMF/jaf



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**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]

**Petitioner**

[REDACTED]