

**STATE OF MICHIGAN  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

**IN THE MATTER OF:**

[REDACTED]

MAHS Reg. No.: 15-019313  
Issue No.: ESO  
Agency Case No.: [REDACTED]  
Hearing Date: December 16, 2015  
County: DHHS SPECIAL  
PROCESSING OFFICE

**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 December 16, 2015, from Lansing, Michigan. [REDACTED], the Petitioner was appeared on his own behalf. The Department was represented by [REDACTED], Assistance Payments Worker. [REDACTED], Linguistica International, provided interpretation services 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 March 31, 2014, Petitioner applied for MA benefits. (Department Exhibit A, pp. 5-12)
2. On the date of MA application, Petitioner was not a United States citizen. (Department Exhibit A, p. 7)

3. Petitioner's Employment Authorization Card was valid from June 16, 2012, through June 15, 2014. (Department Exhibit A, p. 21)
4. Petitioner was approved for Emergency Services Only (ESO) MA coverage starting February 1, 2014. (Department Exhibit A, pp. 14-18)
5. On August 27, 2015, Petitioner requested a hearing. (Department 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 denial of full MA coverage. (Department Exhibit A, 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 (January 1, 2014), p. 2.

#### **FIP, SDA, MA and AMP**

- Alien admitted into the U.S. with one of the following immigration statuses:
  - Permanent resident alien with a class code on the I-551 other than RE, AM or AS.
  - Alien paroled into the U.S. for at least one year under INA Section 212(d)(5).

**Exception (both statuses above):** The eligibility of an alien admitted into the U.S. on or after August 22, 1996, with one of these statuses is restricted as follows unless the alien is a qualified military alien or the spouse or dependent child of a qualified military alien:

- **For FIP**, an individual is disqualified for the first five years in the U.S.
  - **For SDA**, an individual is disqualified.
  - **For MA and AMP** an individual is limited to emergency services for the first five years in the U.S.
- Alien granted conditional entry under INA section 203(a)(7).
  - Permanent resident alien with an I-151, Alien Registration Receipt Card.

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#### **MA and AMP**

- Alien paroled into the U.S. for less than one year under INA Section 212(d)(5). Coverage is limited to emergency services only.
- Non-immigrant--an alien temporarily in the U.S. for a specific purpose (for example, student, tourist). The alien must not have exceeded the time period authorized by USCIS. For both MA and AMP, coverage is limited to emergency services only.
- Person who does not meet any of the MA citizenship/alien statuses above--limited to coverage of emergency services only. This includes, for example, undocumented aliens and non-immigrants who have stayed beyond the period authorized by USCIS.

(BEM 225, pp. 7-9)

On the date of MA application, Petitioner was not a United States citizen. (Department Exhibit A, p. 7) Petitioner is from Mexico. Petitioner's Employment Authorization Card was valid from June 16, 2012, through June 15, 2014. (Department Exhibit A, p. 21) It was uncontested that Petitioner was not a United States citizen or a permanent resident of the United States for over 5 years at the time of his MA application. Under the above cited BEM 225 policy, and based on Petitioner's immigration status or citizenship at that

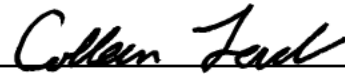
time, the Department properly determined that Petitioner's MA coverage was limited to emergency services only.

Petitioner's testimony related to concerns about his child's MA eligibility. The Assistance Payments Worker confirmed that MA eligibility is determined for each person individually. Accordingly, Petitioner being limited to emergency services only MA does not control whether or not his children are eligible for full MA coverage.

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 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**.



Colleen Lack  
Administrative Law Judge  
for Nick Lyon, Director  
Department of Health and Human  
Services

Date Signed: **01/06/2016**  
Date Mailed: **01/06/2016**

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**NOTICE OF APPEAL:** A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

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