

**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.: 15-020118
Issue No.: ESO
Agency Case No.: [REDACTED]
Hearing Date: January 21, 2016
County: DHHS Special
Processing Office

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 conference hearing was held on January 21, 2016, from Lansing, Michigan. The Petitioner represented himself and provided testimony. 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. Petitioner came to the United States from Kuwait on or about November 24, 2010.
2. On December 13, 2014, Petitioner applied for MA benefits. [Exhibit 1, pp. 4-16].
3. Petitioner indicated that he was a U.S. citizen on his application. [Exh. 1, p. 7].
4. On the date of MA application, the Petitioner was a permanent resident alien.

5. On July 15, 2014, the Department mailed Petitioner a Health Care Coverage Determination Notice (DHS-1606) which indicated that, effective May 1, 2014, he was eligible for Emergency Services Only (ESO) MA coverage. [Exh. 1, pp. 21-24].
6. In August, 2015, the Department issued a notice to the Petitioner indicating that he may have been denied full MA coverage based on immigration status between January 2014 and May 2015.
7. On August 31, 2015, Petitioner requested a hearing. [Exh. 1, 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), 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 activation of ESO MA coverage. The Department admits that Petitioner, at the time of application (December 13, 2014), was a permanent resident alien, but it contends that Petitioner erroneously indicated that he was a U.S. resident on the application. The Department further indicates that Petitioner reapplied for MA in December 15, 2014, and failed to turn in requested verifications which caused his MA case to be closed.

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.

A person claiming U.S. citizenship is not eligible for ESO coverage. BEM 225, p. 2. U.S. citizenship must be verified with an acceptable document to continue to receive Medicaid. BEM 225, p. 2. Citizenship/alien status is not an eligibility factor for emergency services only (ESO) MA. However, the person must meet all other eligibility factors, including residency. BEM 225, p. 2.

MA coverage is limited to emergency services for any: (1) persons with certain alien statuses or U.S. entry dates as specified in policy; (2) persons refusing to provide citizenship/alien status information on the application; and/or (3) persons unable or refusing to provide satisfactory verification of alien information. BEM 225, p. 3. All other eligibility requirements including residency **must** be met even when MA coverage is limited to emergency services. BEM 225, p. 3.

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 lawfully admitted for **permanent residence** under the INA. BEM 225, p. 4 (Emphasis added). For MA, an individual is limited to emergency services for the first five years in the U.S. BEM 225, p. 8.

The record shows that Petitioner, at the time of his initial application (December 13, 2014), was a permanent resident alien. At this point in time, Petitioner should have been eligible for full MA rather than ESO based on BEM 225, p. 8. Therefore, the DHS-1606 mailed to Petitioner on July 14, 2015 was incorrect. Despite the Department representative's testimony that Petitioner later reapplied on December 15, 2014 and then failed to turn in requested verifications, there were no documents in the record to support this contention. The only document in the record consisted of a DHS-1606 dated December 15, 2014, which appeared to indicate that Petitioner was eligible for full MA benefits. However, without the additional documentation, this Administrative Law Judge is unable to confirm that Petitioner's MA eligibility was properly processed in light of the *Unan v MDHHS* lawsuit.

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 not** properly determine Petitioner's immigration status or citizenship when determining MA eligibility.

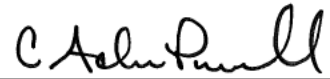
DECISION AND ORDER

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

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Redetermine Petitioner's MA eligibility in accordance with Department policy, if not already done.
2. Notify Petitioner in writing of the Department's new MA eligibility determination, if not already done.

IT IS SO ORDERED.



C. Adam Purnell
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human
Services

Date Mailed: **1/22/2016**

CAP/las

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.

cc:

