

**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.: 15-020284
Issue No.: ESO
Agency Case No.: [REDACTED]
Hearing Date: January 19, 2016
County: DHHS SPECIAL
PROCESSING OFFICE

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 January 19, 2016, from Detroit, Michigan. The Petitioner was represented by the Authorized Hearing Representative (AHR) [REDACTED]. The Department was represented by [REDACTED] Assistant Payment Worker.

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 applied for MA benefits. See Exhibit A, pp. 4-23.
2. On the date of MA application, Petitioner was not a United States citizen. In the application, Petitioner indicated that his date of entry was [REDACTED]. See Exhibit A, p. 7.

3. It was unclear when Petitioner's full-coverage MA case and/or Emergency Services Only (ESO) MA coverage began or ended.
4. On [REDACTED], Petitioner's AHR requested a hearing. See 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.

As a preliminary matter, Petitioner's AHR testified that he never received the Hearing Summary Packet; however, he indicated that the hearing could still proceed even though he did not receive the packet. See BAM 600 (October 2015), pp. 20-23.

In this case, Petitioner's AHR requested a hearing regarding his grandfather's (the Petitioner) MA coverage. See Exhibit A, p. 2.

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; July 2014; October 2014; and October 2015), 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 evidence record contained Petitioner's permanent resident card, which showed that he was a resident since [REDACTED] with an IR0 category. See Exhibit A, pp. 33. It should be noted that the AHR indicated Petitioner arrived in the

country 8 months prior to this date, but failed to provide any such evidence. Petitioner's AHR also indicated that no one was a qualified military alien and he did not enter the U.S. based on asylum or refugee status.

Additionally, the Department presented Petitioner's Medicaid Eligibility document, which indicated the following coverage: (i) full coverage from January 2014 to November 2015; and (ii) ESO coverage for December 2015. See Exhibit A, pp. 24-32. However, during the hearing, the Department's testimony appeared to indicate that Petitioner now had ESO coverage for benefit periods in which he originally had full coverage. For example, Petitioner now has ESO coverage for January 2014, whereas before, his Medicaid Eligibility Summary shows full coverage. See Exhibit A, p. 32.

An explanation for the changes in coverage is most likely due to the multiple notices Petitioner received regarding his MA eligibility. First, on [REDACTED], the Department sent Petitioner a Health Care Coverage Determination Notice (determination notice) notifying him that he was eligible for full coverage MA from January 2015 to November 2015. See Exhibit A, pp. 35-36. But then, another determination notice was sent on [REDACTED], notifying Petitioner that he was eligible for only ESO coverage from [REDACTED] ongoing. Also, on [REDACTED] and [REDACTED] the Department sent additional determinate notices indicating that Petitioner had full coverage for January 2016 and February 2016.

Based on the foregoing information and evidence, the Department failed to satisfy its burden of showing that it properly determined Petitioner's immigration status when determining MA eligibility. The evidence failed to indicate whether Petitioner received full coverage MA or only ESO coverage. The Department provided Petitioner's Medicaid Eligibility document to show the type of coverage he received, but the undersigned cannot rely on this document, as the coverage has changed since this document was provided. In essence, the undersigned does not have any reliable documentation showing the type of coverage Petitioner received; therefore, the evidence is unclear if the Department properly determined Petitioner's immigration status when determining his MA eligibility. As such, the Department will go back and redetermine Petitioner's MA eligibility from [REDACTED], ongoing.

It should be noted, though, that the evidence indicated that Petitioner was not eligible for full coverage until he had been a permanent resident alien for five or more years, which would have been December of 2015. See Exhibit A, p. 33 (permanent resident card showed residence since December 7, 2010) and BEM 225, pp. 7-8, 30; MREM, § 3.6. Petitioner did not have any eligible class code nor was anyone a qualified military alien to make him eligible for full coverage prior to this time. Thus, it appears that full coverage should be effective [REDACTED], ongoing, and he would only be eligible for ESO coverage prior to December of 2015. Nonetheless, as stated above, the Department failed its burden of showing that it properly determined Petitioner's immigration status when determining MA eligibility.

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 MA eligibility in accordance with Department policy.
2. Notify Petitioner in writing of the Department's new MA eligibility determination.



Eric Feldman
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **1/20/2016**

Date Mailed: **1/20/2016**

EF / hw

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:

