

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

**IN THE MATTER OF:**

██████████  
██████████████████  
██████████████████████████████

MAHS Reg. No.: 15-021206  
Issue No.: ESO  
Agency Case No.: ██████████  
Hearing Date: January 06, 2016  
County: DHHS Special  
Processing Office

**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 4-way telephone hearing was held on January 6, 2016, from Detroit, Michigan. Petitioner participated via telephone and represented herself. The Department was represented by ██████████ Eligibility Specialist, ██████████ and ██████████ from Linguistica served as translators (Vietnamese) 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 1, 2015, Petitioner applied for MA.
2. On the date of MA application, Petitioner was not a United States citizen.
3. Beginning March 1, 2015, Petitioner was approved for Emergency Services Only (ESO) MA coverage.

4. On an unknown date, the Department issued a notice to the Petitioner indicating he/she might have been denied full MA coverage based on immigration status between January 2014 and May 2015.
5. On August 28, 2015, 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 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 testified that after Petitioner filed her hearing request, it reassessed her MA eligibility. Based on Petitioner's statements in her MA application that she was not a U.S. citizen but had eligible immigration status and that she was a permanent resident, it reassessed her eligibility and activated full-coverage MA for her from March 1, 2015 to December 1, 2015. On November 16, 2015, the Department sent Petitioner a Benefit Notice showing that it had changed her coverage for March 2015 through December 2015 to full-coverage MA (Exhibit A, pp. 17-18). The

Department also provided a Medicaid eligibility summary showing that Petitioner received full-coverage MA between March 1, 2015 and December 31, 2015 (Exhibit A, p. 15).

The Department changed Petitioner's coverage back to ESO beginning January 1, 2016. The evidence presented by the Department, namely the copy of Petitioner's permanent residency card, established that Petitioner had entered the U.S. from [REDACTED] in November 2014. There was no eligible asylum or refugee status identified on the permanent residency card. Further, there was no evidence in the application that Petitioner had served in the U.S. military or was the spouse of a service person. Because Petitioner had not been a resident alien for 5 years, had not served in the U.S. military, and did not have asylum or refugee status, she was not eligible for full-coverage MA. Therefore, the Department properly converted her MA coverage to ESO coverage effective January 1, 2016.

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**.



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**Alice C. Elkin**  
Administrative Law Judge  
for Nick Lyon, Director  
Department of Health and Human Services

Date Mailed: 01/08/16

ACE / tlf

**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: [REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]