

**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.: 15-022019
Issue No.: ESO
Agency Case No.: [REDACTED]
Hearing Date: January 20, 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 20, 2016, from Detroit, Michigan. The Petitioner was represented by [REDACTED] (Petitioner) and her sister/translator, [REDACTED]. 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 applied for MA benefits. See Exhibit A, pp. 5-24. In the application, Petitioner indicated that her date of entry into the U.S. was [REDACTED]. See Exhibit A, p. 7.
2. A redetermination was also processed for Petitioner on [REDACTED]. See Exhibit A, p. 1 (Hearing Summary).

3. On the date of MA application and redetermination, Petitioner was not a United States citizen.
4. Beginning [REDACTED] to [REDACTED], Petitioner was approved for Emergency Services Only (ESO) MA coverage under case no. [REDACTED]. See Exhibit A, pp. 26-29 (Medicaid Eligibility).
5. Under case no. [REDACTED] Petitioner's case was closed due to a redetermination not being returned. See Exhibit A, p. 1 (Hearing Summary). However, Petitioner is now active for ESO coverage under case no. 118986017 from [REDACTED], ongoing, which resulted in no lapse in ESO coverage. See Exhibit A, p. 1 (Hearing Summary) and pp. 25-26 (Medicaid Eligibility).
6. On [REDACTED], the Department sent Petitioner a Health Care Coverage Determination Notice notifying her that she was approved only for ESO coverage from [REDACTED], ongoing. See Exhibit A, pp. 30-33.
7. On [REDACTED], Petitioner 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.

In this case, Petitioner requested a hearing disputing the activation of her ESO coverage. See Exhibit A, p. 2. It should also be noted that the undersigned's jurisdiction is only to review whether the Department denied Petitioner's full MA coverage between January 2014 to May 2015, in accordance with federal and state laws and policies.

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 did not contain Petitioner's permanent resident card. However, Petitioner had her permanent resident card present with her during the hearing, and indicated her card showed that she was a resident since [REDACTED], with an F43 category. Petitioner and her sister also indicated that the Petitioner was from Jordan, no one was a qualified military alien, and she did not enter the U.S. based on asylum or refugee status.

Additionally, the Department presented two of the Petitioner's Medicaid Eligibility forms (under two different case numbers), which indicated the following coverage: ESO coverage from April 2013 to December 2015. See Exhibit A, pp. 25-29. Finally, the Department testified that it determined Petitioner was not eligible for full MA coverage for these months because she neither attested to being a U.S. citizen nor attested to having eligible immigration status on her application and Petitioner did not provide verification of citizenship. See Exhibit A, p. 1 (Hearing Summary) and see BAM 130 (January 2014; April 2014; July 2014; October 2014; and July 2015), p. 4 (When an applicant for Medicaid claims to be a U.S. citizen or to have qualified immigrant status, and all other eligibility factors are met, certify benefits. Once the case has been open and coverage entered in Bridges, verification of citizenship must be completed). It should be noted that Petitioner's application dated [REDACTED] application did not offer such a question as to whether Petitioner attests to having eligible immigration status, whereas the new applications now offer such a question. See Exhibit A, pp. 5-24.

Nevertheless, the issue before the undersigned is whether the Department properly determined Petitioner's immigration status or citizenship when determining MA eligibility.

Based on the foregoing information and evidence, along with both parties' testimony, the Department properly determined Petitioner's immigration status when determining MA eligibility. At the time of the application and redetermination, Petitioner was not a permanent resident alien for five or more years, she did not enter the U.S. based on asylum or refugee status, she did not have an eligible class code, and there was not a qualified military alien. As such, the Department properly determined at the time that Petitioner was not eligible for full-coverage MA.

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 when determining MA eligibility.

DECISION AND ORDER

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



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:

