

**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.: 15-022104
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. Petitioner was represented by [REDACTED] (Petitioner's husband). The Department was represented by [REDACTED] (Eligibility Specialist). [REDACTED] ([REDACTED] International) served as translator 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. Petitioner applied for MA benefits.
2. At the time of application, the Petitioner was a refugee from Bhutan. [Exh. 1, pp. 5-6].
3. From April through June, 2014, the Department approved Petitioner's MA application for Emergency Services Only (ESO) MA coverage. [Exh. 1, pp. 8-10].

4. In August, 2015, the Department issued a notice to the Petitioner indicating that she may have been denied full MA coverage based on immigration status between January 2014 and May 2015.
5. On September 30, 2015, the Department mailed Petitioner a Benefit Notice (DHS-176) which provided full retroactive MA coverage for April, May and June, 2014. [Exh. 1, pp. 11-12].
6. On August 28, 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 concedes that erroneously provided Petitioner with ESO MA coverage, but that Petitioner, as a refugee, was entitled to full MA coverage. The Department indicated that it provided Petitioner with full MA coverage for the retro months (April, May, June) in 2014 and ongoing.

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.

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.

For all programs, 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 “a refugee who is admitted to the U.S. under Section 207 of the INA; this includes Iraqi and Afghan special immigrants.” BEM 225, pp. 3-4.

In this case, the parties agreed that Petitioner, at the time of application was a refugee. Accordingly, Petitioner was a qualified alien with acceptable status for purposes of MA benefits. BEM 225, pp. 2, 4. Therefore, Petitioner was eligible for full MA. Although the Department initially provided Petitioner with ESO benefits for three months, the record also shows that the Department recognized and corrected the error by providing retroactive MA for those same months.

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** 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 **AFFIRMED**.



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

Date Mailed: **1/21/2016**

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:

