

**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.: 15-022153
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 four-way telephone hearing was held on January 20, 2016, from Detroit, Michigan. The Petitioner was represented by the Authorized Hearing Representative (AHR), [REDACTED]. The Department was represented by [REDACTED] Eligibility Specialist. [REDACTED] 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. On [REDACTED], the Department sent Petitioner a Health Care Coverage Determination Notice (determination notice) notifying him that he was approved for Emergency Services Only (ESO) – MA coverage effective [REDACTED], ongoing. See Exhibit A, pp. 14-16.

2. However, Petitioner's permanent resident card showed that he was a resident since [REDACTED], and a RE6 category, which meant he entered the U.S. based on refugee status. See Exhibit A, p. 3.
3. Beginning [REDACTED], Petitioner's ESO coverage was converted to full coverage MA due to his refugee status. See Exhibit A, p. 1 (Hearing Summary) and pp. 17-18 (Benefit Notice dated [REDACTED]).
4. Petitioner's Medicaid Eligibility indicated the following coverage: (i) no MA coverage from January 2014 to February 2014; (ii) full MA coverage from March 2014 to July 2015; and (iii) limited Qualified Medicare Beneficiaries (QMB) – Medicare Savings Program (MSP) from [REDACTED]. See Exhibit A, pp. 9-11.
5. 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 indicated that she never received the hearing packet. However, the AHR acknowledged that the hearing could still proceed even though she did not receive the hearing packet. See BAM 600 (April 2015 and October 2015), pp. 22-23.

In this case, Petitioner's AHR requested a hearing disputing the MA benefits. 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 contain Petitioner's permanent resident card, which showed that he was a resident since [REDACTED], and a RE6 category, which meant he entered the U.S. based on refugee status. See Exhibit A, p. 3.

Petitioner's Medicaid Eligibility indicated the following coverage: (i) no MA coverage from January 2014 to February 2014; (ii) full MA coverage from March 2014 to July 2015; and (iii) limited QMB – MSP from [REDACTED]. See Exhibit A, pp. 9-11. It should be noted that the Department indicated that Petitioner had Group 2 MA coverage (with a deductible) for the time period of January 2014 to February 2014, even though the Medicaid Eligibility showed no eligible coverage.

Additionally, due to Petitioner's refugee status, the Department converted Petitioner's previous ESO coverage to full coverage beginning [REDACTED]. See Exhibit A, p. 1 (Hearing Summary) and pp. 17-18 (Benefit Notice dated October 8, 2015). It should also be noted that Petitioner received full coverage beginning March 1, 2014, rather than [REDACTED] as indicated in the Benefit Notice. It is unclear why the Benefit Notice did not address his full coverage beginning [REDACTED].

Based on the foregoing information and evidence, along with both parties' testimony, the Department properly determined Petitioner's immigration status when determining MA eligibility, except for the time period of January 2014 to February 2014.

First, even though the Department indicated that Petitioner had Group 2 MA coverage (with a deductible) for time period of January 2014 to February 2014, the Department presented contradictory evidence that showed he received no MA coverage for this period. See Exhibit A, p. 11. As such, the evidence is unclear if the Department properly determined Petitioner's MA eligibility for the period of January 2014 to February 2014. The Department will go back and redetermine Petitioner's MA eligibility for January 2014 to February 2014.

Second, for the period of March 2014 to July 2015, Petitioner's Medicaid Eligibility form indicates full coverage. See Exhibit A, pp. 9-11. The undersigned finds that the Department properly provided Petitioner with full MA coverage for this period because he is eligible based on his refugee status. See Exhibit A, p. 3 (permanent resident card showing resident since [REDACTED], and a RE6 category) and see BEM 225, pp. 7-8, 30; MREM, § 3.6.

Third, Petitioner's Medicaid Eligibility form did indicate only MSP-QMB coverage for [REDACTED]; however, this falls outside the jurisdiction of the undersigned to review. As stated above, the undersigned's jurisdiction is only to review whether the Department denied Petitioner's full MA coverage between January 2014 and May 2015, in accordance with federal and state laws and policies. In response, Petitioner's AHR did not even address the MSP coverage but instead, argued that Petitioner's deductible amount was too high. Nonetheless, despite the issue with Petitioner's MSP coverage effective [REDACTED] and the AHR's dispute with the amount of the Petitioner's deductible, the issue before the undersigned is whether the Department properly determined Petitioner's immigration status or citizenship when determining MA eligibility. In the present case, the Department provided Petitioner with full MA coverage for the period in review (except for January 2014 to February 2014) because he is eligible based on his refugee status. As such, the Department properly determined Petitioner's immigration status or citizenship when determining his MA eligibility effective [REDACTED], ongoing. If the AHR is disputing the amount of the deductible, she can request another hearing to dispute that amount. See BAM 600, pp. 1-6.

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 (i) the Department improperly determined Petitioner's immigration status or citizenship when determining his MA eligibility for [REDACTED] to [REDACTED]; and (ii) the Department properly determined Petitioner's immigration status or citizenship when determining his MA eligibility for [REDACTED], ongoing.

DECISION AND ORDER

Accordingly, the Department's determination about MA eligibility based on immigration status is **AFFIRMED IN PART** with respect to Petitioner's eligibility from [REDACTED], ongoing, and **REVERSED IN PART** with respect to Petitioner's eligibility from [REDACTED] to [REDACTED].

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 from [REDACTED] to [REDACTED], in accordance with Department policy; and

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: **1/21/2016**

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

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:

