

**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.: 15-017591
Issue No.: ESO
Agency Case No.: [REDACTED]
Hearing Date: February 10, 2016
County: DHHS SSPC

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 February 10, 2016, from Detroit, Michigan. The Petitioner was represented by the Petitioner, [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.
2. On the date of MA application, Petitioner was not a United States citizen and advised the Department that she had eligible immigration status.
3. Beginning [REDACTED], Petitioner's **application** was **approved** for Emergency Services Only (ESO) MA coverage. Exhibit 3.

4. On [REDACTED] the Department issued a Benefit Notice (DHS 176) approving the Petitioner for full coverage Medical Assistance (MA) from February 2014 through [REDACTED]. Exhibit 1.
5. The Medicaid Eligibility summary shows full Medicaid coverage beginning [REDACTED] and continuing until [REDACTED] when the Petitioner was placed on a spend down. Exhibit 4.
6. The Petitioner provided the Department a Permanent Resident card on [REDACTED] [REDACTED] which demonstrated that she had been a Resident since [REDACTED]. Based upon the card the Petitioner completed 5 years as a U.S. resident as of [REDACTED]. Exhibit 2.
7. On 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.
8. On [REDACTED], 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, §

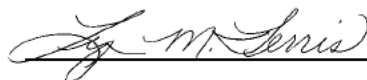
3.6. A person who does not meet an acceptable alien status, including undocumented aliens and non-immigrants who have stayed beyond the period authorized by the U.S. Citizenship and Immigration Services, are eligible only for ESO MA coverage. BEM 225, p. 9. The alien status of each non-citizen must be 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. The Petitioner applied for Medical Assistance on [REDACTED]. The Petitioner attained 5 years of resident alien status as of [REDACTED]. Exhibit 2. Thus, on the date of the application Petitioner was eligible for full MA as she disclosed her status and provided an immigration card. On [REDACTED] the Department issued a Benefit Notice (DHS 176) approving the Petitioner for full coverage Medical Assistance (MA) from February 2014 through [REDACTED]. Exhibit 1. This Benefit Notice corrected the Department's initial determination that Petitioner was eligible for ESO Medical Assistance only. The Department also provided a Medicaid eligibility summary showing that Petitioner received full-coverage MA after [REDACTED] through [REDACTED], at which time Petitioner was placed on a spend down. (Exhibit 4, p. 18-19).

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**



Lynn M. Ferris
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **February 12, 2016**

Date Mailed: **February 12, 2016**

LMF / 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:

