

**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.: 15-019881
Issue No.: ESO
Agency Case No.: [REDACTED]
Hearing Date: February 3, 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 February 3, 2016, from Detroit, Michigan. The Petitioner, [REDACTED], was represented by the Authorized Hearing Representative (AHR), [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 [REDACTED], the Department sent Petitioner a Notice of Case Action notifying her that she was only eligible for Emergency Services Only (ESO) coverage from [REDACTED], ongoing. See Exhibit A, pp. 23-27.

3. On [REDACTED], Petitioner re-applied for MA benefits. See Exhibit A, pp. 4-12.
4. On the date of MA applications, Petitioner was not a United States citizen. In the application dated [REDACTED], Petitioner indicated that she was not a U.S. citizen or a U.S. national and did not answer the question that asked if whether she has eligible immigration status. See Exhibit A, p. 7.
5. On [REDACTED], the Department sent Petitioner a Verification Checklist, which requested verification of citizenship and it was due back by [REDACTED], [REDACTED]. See Exhibit A, pp. 21-22.
6. On [REDACTED], the Department sent Petitioner a Health Care Coverage Determination Notice (determination notice) notifying her that she was approved for ESO coverage from [REDACTED], ongoing. See Exhibit A, pp. 28-31.
7. Petitioner's Medicaid Eligibility indicated the following coverage: (i) ESO coverage from January 2014 to August 2014; (ii) no MA coverage for September 2014; (iii) ESO coverage for October 2014; (iv) full-coverage MA for November 2014 to December 2014; and (v) ESO coverage from January 2015, ongoing. See Exhibit A, pp. 13-15.
8. On [REDACTED], Petitioner's AHR requested a hearing. See Exhibit A, p. 2.
9. On [REDACTED], the Michigan Administrative Hearing System (MAHS) sent Petitioner a Notice of Hearing informing Petitioner of a hearing scheduled on [REDACTED].
10. On [REDACTED], MAHS sent Petitioner an Amended Notice of Hearing informing Petitioner of a hearing rescheduled on [REDACTED].

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 he never received the hearing packet. However, the Petitioner's AHR acknowledged that the hearing could still proceed even though he 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 (USCIS), 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, Petitioner is not a United States citizen. Petitioner did provide several forms of verifications, which included a U.S. employment authorization card, a Social Security Card indicating she is valid for work only, a mihealth card, and a Michigan identification card. See Exhibit A, p. 32. However, the evidence packet did not include any permanent resident card. Petitioner's AHR testimony appeared to indicate that the Petitioner did not have a permanent resident card. In fact, based on the AHR's testimony, Petitioner was a person who did not meet any of the MA citizenship/alien statuses in order to be eligible for full-coverage MA (i.e., undocumented aliens and non-immigrants who have stayed beyond the period authorized by USCIS). Therefore, Petitioner is only limited to ESO coverage. See BEM 225, p. 9.

It should be noted that Petitioner's Medicaid Eligibility indicated the following coverage: (i) ESO coverage from January 2014 to August 2014; (ii) no MA coverage for September 2014; (iii) ESO coverage for October 2014; (iv) full-coverage MA for November 2014 to December 2014; and (v) ESO coverage from January 2015, ongoing. See Exhibit A, pp. 13-15.

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 September 2014.

First, the evidence established that Petitioner was a person who did not meet any of the MA citizenship/alien statuses to be eligible for full-coverage MA (i.e., undocumented aliens and non-immigrants who have stayed beyond the period authorized by USCIS). Instead, Petitioner is only eligible for ESO coverage. See BEM 225, p. 9. As such, the Department properly determined that Petitioner is eligible for only ESO coverage from January 2014 to August 2014, October 2014, and January 2015, ongoing.

Second, the Department did provide Petitioner with full-coverage MA for November 2014 to December 2014. See Exhibit A, pp. 13-15. It appears that the Department provided the Petitioner with full-coverage MA because it requested verification of her citizenship MA during this time period. See Exhibit A, pp. 21-22 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). Nonetheless, there is no issue to dispute during the time period of November 2014 to December 2014 as the Department provided Petitioner with full-coverage MA. As such, the undersigned affirms the Department's determination about Petitioner's MA eligibility based on immigration status for the time period of November 2014 to December 2014.

Third, the evidence is unclear as to why Petitioner received no MA coverage for September 2014. Petitioner requested medical assistance for September 2014 in her application. See Exhibit A, p. 7 (Petitioner indicated unpaid medical expenses for September 2014). However, Petitioner's Medicaid Eligibility indicates that the Department did not provide any MA coverage at all for September 2014. See Exhibit A, p. 14. The evidence establishes that Petitioner would most likely be eligible for ESO coverage for September 2014. Therefore, the Department will redetermine Petitioner's MA eligibility for September 2014 in accordance with Department policy.

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 did properly determine Petitioner's immigration status or citizenship when determining MA eligibility for January 2014 to August 2014 and October 2014, ongoing; and (ii) the Department did not properly determine Petitioner's immigration status or citizenship when determining MA eligibility for September 2014.

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 January 2014 to August 2014 and October 2014, ongoing, and **REVERSED IN PART** with respect to Petitioner's eligibility for September 2014.

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 for September 2014 in accordance with Department policy.
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: **2/3/2016**

Date Mailed: **2/3/2016**

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:

