

**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.: 15-020687
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)/spouse, [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], the AHR applied for MA benefits on behalf of the Petitioner via the Federally Facilitated Marketplace. See Exhibit A, pp. 4-14.
2. On the date of MA application, Petitioner was a permanent resident alien who had resided in the U.S. for five or more years. See Exhibit A, pp. 20-21.
3. On an unspecified date, Petitioner received Emergency Services Only (ESO) MA coverage; however, the Department updated all benefit periods that previously had

ESO coverage and provided Petitioner with full-coverage MA from [REDACTED] ongoing. See Exhibit A, pp. 1 and 15-17. (Medicaid Eligibility).

4. On [REDACTED], Petitioner's AHR requested a hearing. See Exhibit A, p. 2.
5. On [REDACTED], the Department sent Petitioner a Benefit Notice notifying her that she was eligible for full-coverage MA from [REDACTED], ongoing. See Exhibit A, pp. 18-19.
6. On [REDACTED], the Michigan Administrative Hearing System (MAHS) sent Petitioner a Notice of Hearing informing Petitioner of a hearing scheduled on [REDACTED].
7. 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.

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.

On [REDACTED], the AHR applied for MA benefits on behalf of the Petitioner via the Federally Facilitated Marketplace. See Exhibit A, pp. 4-14.

On the date of MA application, Petitioner was a permanent resident alien who had resided in the U.S. for five or more years. See Exhibit A, pp. 20-21 (Petitioner's permanent resident card indicating resident since March 13, 2002). As such, Petitioner would be eligible for full-coverage MA. BEM 225, pp. 7-8, 30; MREM, § 3.6.

Instead, though, the Department initially provided Petitioner with ESO MA coverage. Nonetheless, the Department updated all of Petitioner's benefit periods that previously had ESO coverage and provided her with full-coverage MA from [REDACTED], ongoing. See Exhibit A, pp. 1 and 15-17. (Medicaid 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. Yes, the Department initially approved Petitioner for only ESO coverage. However, the Department subsequently provided Petitioner with full-coverage MA from [REDACTED], ongoing because she was a permanent resident alien who had resided in the U.S. for five or more years. See Exhibit A, pp. 1, 15-17, and 20-21. As such, the Department properly determined that Petitioner was eligible for full-coverage MA from [REDACTED], ongoing.

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.**



Eric Feldman
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **2/4/2016**

Date Mailed: **2/4/2016**

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:

