

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

IN THE MATTER OF:

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MAHS Reg. Nos.: 15-020952;
15-021313;
15-020951;
15-020930;
15-021177; and
15-021178
Issue No.: ESO
Agency Case No.: ██████████
Hearing Date: February 24, 2016
County: DHHS Special
Processing Office

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 telephone hearing was held via 4-way telephone conference on February 24, 2016, from Detroit, Michigan. The hearings were consolidated for Petitioner ██████████, registration no. 15-020952 and her husband, Petitioner ██████████, registration no. 15-021313, and their four minor children: ██████████, registration no. 15-020951; ██████████, registration no. 15-020930; ██████████, registration no. 15-021177; and ██████████ ██████████, registration no. 15-021178. The household was represented by Petitioner ██████████ ██████████. The Department was represented by ██████████, Eligibility Specialist. ██████████ served as translator (Arabic) during the hearing.

ISSUE

Did the Department properly determine Petitioners' 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 April 28, 2015, Petitioners applied for MA benefits (Exhibit A, pp. 5-22).
2. On the date of MA application, Petitioners were not United States citizens.
3. Petitioners were approved for Emergency Services Only (ESO) MA coverage.
4. On an unknown date, the Department issued a notice to Petitioners indicating they may have been denied full MA coverage based on immigration status between January 2014 and May 2015.
5. On September 11, 2015, Petitioners requested hearings.

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, Petitioners requested hearings disputing the Department granting them 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 Petitioners filed their hearing requests, it reassessed their MA eligibility. Based on Petitioners' assertions in their application that they had eligible alien status, the Department testified that it converted coverage for all Petitioners to full coverage. In support of its testimony, the Department provided a Health Care Coverage Determination Notice it sent Petitioners on October 15, 2015 notifying them that [REDACTED] and [REDACTED] were approved for full coverage MA from April 1, 2015 ongoing and their minor children were approved for full coverage MA from January 1, 2015 ongoing (Exhibit A, pp. 25-26). The Department also provided a Medicaid eligibility chart showing monthly coverage for each Petitioner that showed full-coverage MA consistent with the Health Care Coverage Determination Notice (Exhibit A, pp. 23-24; Exhibit B, pp. 23-24; Exhibit C, pp. 23-24; Exhibit D, pp. 23-24; Exhibit E, pp. 23-24; Exhibit F, pp. 23-24).

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 properly determined Petitioners' immigration status or citizenship when determining MA eligibility.

There was evidence at the hearing that Petitioners' MA cases were due to close effective March 1, 2016. The Department explained that it sent a verification checklist to Petitioners on October 15, 2015 requesting proof of alien status by January 13, 2016. See BAM (July 2015), p. 4. According to the Department, Petitioners failed to respond to the VCL and on January 13, 2016 a Health Care Coverage Determination Notice was sent to the household notifying them that their MA cases were closing effective March 1, 2016. Because Petitioners were notified of the Department's intended action to close their MA cases on January 13, 2016, after they had submitted their September 11, 2015 requests for hearing, the issue of the case closures was not properly presented for consideration at the hearing. Petitioner [REDACTED] was advised that she could request a hearing to dispute the case closure or reapply for benefits.

