



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
Christopher Seppanen  
Executive Director

MIKE ZIMMER  
DIRECTOR

[REDACTED]

Date Mailed: March 18, 2016  
MAHS Docket No.: 15-021219  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**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 telephone hearing was held on February 18, 2016, from Detroit, Michigan. The Petitioner was represented by Petitioner [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 June 17, 2014, Petitioner applied for MA benefits. Exhibit A.
2. On the date of the MA application, Petitioner was not a United States (U.S.) citizen.

3. On the Petitioner's application, he did not indicate whether he had eligible immigration status. Exhibit A
4. On December 15, 2014, the Department issued a Health Care Coverage Determination Notice closing Petitioner's MA case for the reason that the Petitioner was not a caretaker of a minor child in the home, not disabled and not 65 years of age. In addition, the Petitioner had annual income of \$ [REDACTED] and was no longer eligible for full coverage MA effective January 1, 2015. Exhibit D.
5. The Department issued a Benefit Notice dated November 5, 2015, approving the Petitioner for full health care coverage beginning June 2014 through December 2014. Thereafter, the Petitioner's case closed on January 1, 2015, due to excess income. Exhibits B and D.
6. At the hearing, the Petitioner testified that he did not have a permanent resident card and he only had a work permit. He did not provide a copy of his work permit at the hearing, and the Department did not have a copy of the permit in its files.
7. On an 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. The Petitioner requested a hearing on September 3, 2015.

### **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 **conversion from full coverage MA by the** Department's Benefit Notice dated November 5, 2015. The Petitioner was made eligible for full medical health care coverage for a six-month period after his June 2014 application (June 2014 through December 2014). Ultimately, the Department closed the Petitioner's MA case effective January 1, 2015, as he was not a caretaker of a minor child and his income of [REDACTED] exceeded the MA eligibility

income limit. Exhibit D. Although the Petitioner conceded that he did not have a permanent resident card, or other eligible immigration status, he testified that he did have a work permit. The work permit itself was not provided at the hearing, nor did the Department file contain a copy of it.

To be eligible for full MA coverage 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. Petitioner testified that he is not a U.S. citizen and has been a permanent resident since May 12, 2011. At time of application or redetermination, Petitioner or Petitioner's family member status was a permanent resident. Exhibit 1.

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. Non-citizens receiving ESO MA do not have to verify alien status. BEM 225, p. 20. A person who is unable to obtain verification of alien status or refuses to cooperate in obtaining it is limited to ESO until verification is obtained. BEM 225, p. 20.

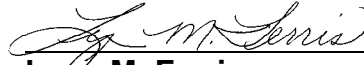
Petitioner's testimony at the hearing established that he did not have eligible alien status as a permanent resident or any other immigration status such as an Asylee under Section 208, or a Refugee under Section 207. BEM 225, p. 32. The Petitioner did have a work permit. Accordingly, based upon the proofs presented at the hearing, the Petitioner was eligible for only ESO coverage; however, the Department provided full MA coverage for the period and did not object to its determination of full coverage or state that it was error.

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**

LMF/jaf



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

**NOTICE OF APPEAL:** A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings  
Reconsideration/Rehearing Request  
P.O. Box 30639  
Lansing, Michigan 48909-8139

**DHHS**

[REDACTED]

**Petitioner**

[REDACTED]