

**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. No.: 15-019062
and 15-022987
Issue No.: ESO
Agency Case No.: ██████████
Hearing Date: January 28, 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 on January 28, 2016, from Detroit, Michigan. The hearings under Registration No. 15-019062 concerning Petitioner ██████████ and under Registration No. 15-022987 concerning Petitioner ██████████, ██████████ husband, were consolidated. Petitioners were represented by Petitioner ██████████. The Department was represented by ██████████, Eligibility Specialist.

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. In June 2013, Petitioners applied for MA benefits (Exhibit C, pp. 4-16). On April 30, 2014, Petitioners reapplied for MA benefits (Exhibit A, pp. 5-17).

2. On the dates of MA applications, 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 August 31, 2015, the Department received Petitioners' requests for 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, Petitioners requested a hearing 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 (October 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 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, Petitioners were permanent U.S. residents from [REDACTED] whose permanent residency cards showed U.S. residency since July 10, 2013 with a category IR5. Petitioner [REDACTED] testified that he and his wife had never served in the U.S. military. Because at the time of their MA applications Petitioners had not been permanent resident aliens for five or more years, did not have eligible class codes of

RE, AM or AS, and were not qualified military aliens, they were not eligible for full-coverage MA.

At the hearing, the Department testified that, in response to [REDACTED] hearing request and based on his attestation to having eligible alien status, it activated full-coverage MA for [REDACTED] for some months. Although Petitioner established that he received a Benefit Notice on December 8, 2015 showing that he was eligible for full-coverage April 1, 2014 to August 31, 2015 (Exhibit 1), the current Medicaid eligibility summary showed that coverage for only April 1, 2014 to August 31, 2014 was converted to full-coverage (Exhibit B). Ultimately, because Petitioner was not eligible for any full-coverage MA, the Department did not err when it failed to convert Petitioner's MA coverage to full-coverage.

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 when determining MA eligibility.

DECISION AND ORDER

Accordingly, the Department's determination about MA eligibility based on immigration status is **AFFIRMED**.



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **2/3/2016**

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

ACE / tlf

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: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]