

**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.: 15-023530
and 15-023465
Issue No.: ESO
Agency Case No.: ██████████
Hearing Date: February 03, 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 3, 2016, from Detroit, Michigan. The hearings were consolidated for Petitioner ██████████, registration no. 15-023530, and his wife, Petitioner ██████████, registration no. 15-023465. Petitioners were represented by ██████████, their daughter and authorized hearing representative (AHR). The Department was represented by ██████████, Eligibility Specialist. ██████████ served as translator (Albanian), to the extent requested by the AHR 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 14, 2014, Petitioners applied for MA (Exhibit A, pp. 4-11; Exhibit B, pp. 4-11).
2. On the date of MA application, Petitioners were not United States citizens.
3. The Department approved Petitioners 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 28, 2015, Petitioners requested hearings (Exhibit A, p. 2; Exhibit B, p. 2).

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' statements in their MA application that they were not U.S. citizens but they were permanent residents and had eligible immigration status, it reassessed their eligibility and activated full-coverage MA for them from April 1, 2014 to November 30, 2015. On November 24, 2015, the Department sent Petitioner [REDACTED] a Benefit Notice notifying her that it had changed her coverage for April 2014 through November 2015 to full-coverage MA (Exhibit B, pp. 15-16). On December 18, 2015, the Department sent Petitioner [REDACTED] a Benefit Notice notifying him that it had changed his coverage for April 2014 through November 2015 to full-coverage MA (Exhibit A, pp. 15-16). The Department also provided a Medicaid eligibility summary showing that Petitioners each received full-coverage MA between April 1, 2014 and November 30, 2015 (Exhibit A, pp. 12-14; Exhibit B, pp. 12-14).

The Department testified that Petitioner [REDACTED] MA case closed effective November 30, 2015 for reasons unrelated to his alien status and that it changed Petitioner [REDACTED] MA coverage back to ESO beginning December 30, 2015. Because the issue of the closure of [REDACTED] case is unrelated to his alien status, the only issue presented at the hearing was whether coverage was properly converted back to ESO for [REDACTED].

The evidence presented by the Department, namely the copy of [REDACTED] permanent residency card, established that she had been a U.S. permanent resident since August 2013. There was no eligible asylum or refugee status identified on the permanent residency card. Further, the AHR acknowledged that neither Petitioner had served in the U.S. military. Because at the time her case was reassessed Petitioner [REDACTED] had not been a resident alien for 5 years, had not served in the U.S. military, and did not have asylum or refugee status, she was not eligible for full-coverage MA. Therefore, the Department properly converted her MA coverage to ESO coverage effective December 1, 2015.

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 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**.



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

Date Signed: **2/5/2016**

Date Mailed: **2/5/2016**

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]
[REDACTED]