

**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.: 15-023612
Issue No.: ESO
Agency Case No.: ██████████
Hearing Date: February 10, 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 10, 2016, from Detroit, Michigan. Petitioner appeared and represented himself. The Department was represented by ██████████, Eligibility Specialist. ██████████ 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 April 26, 2013, Petitioner applied for MA (Exhibit A, pp. 5-16).
2. On the date of MA application, Petitioner was not a United States citizen.

3. The Department activated Emergency Services Only (ESO) MA coverage for July 1, 2013 ongoing.
4. On an unknown date, the Department issued a notice to the Petitioner indicating he may have been denied full MA coverage based on immigration status between January 2014 and May 2015.
5. On September 1, 2015, Petitioner requested a hearing (Exhibit A, 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, Petitioner requested a hearing disputing the Department granting him ESO MA rather than full-coverage MA for July 2013 ongoing. 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, Petitioner acknowledged that he had never been in the U.S. military. The verification documentation the Department received was not legible (Exhibit A, p. 22). At the hearing, the Department asserted that Petitioner had verified that he had an employment authorization to be in the U.S. However, there is reference to an I-551

card number on the page with Petitioner's verification documentation and a reference to an August 5, 2011 date of entry. The I-551 is a permanency residency card. BEM 225, p. 26. Therefore, the Department's evidence establishes that Petitioner is a permanent resident alien with a U.S. entry date of August 5, 2011. There is no indication that Petitioner had a permanent resident class category of RE, AM or AS. Because at the time of MA application through the date of hearing, the evidence showed that Petitioner had not been permanent resident alien for five or more years, did not have eligible class code, and was not a qualified military alien, he was not eligible for full-coverage MA. His status continued as ineligible as of the September 1, 2015 hearing request date.

At the hearing, Petitioner alleged that he had entered the U.S. in 2008. He also alleged that he had applied for and been approved for asylum. Petitioner was provided with the opportunity to fax his permanent resident card which would show his entry date and any asylum status but failed to do so. Therefore, he failed to rebut the Department's evidence showing that he was ineligible for full-coverage MA.

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 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: **2/17/2016**

Date Mailed: **2/17/2016**

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]