



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 14, 2016
MAHS Docket No.: 15-023975
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 the 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 Medical Assistance (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 February 10, 2015, the Petitioner applied for MA.
2. On the date of MA application, Petitioner was not a United States citizen.
3. The Petitioner advised the Department on her application that she did not have eligible immigration status. Exhibit A.

4. The Petitioner has been a permanent residence since [REDACTED], and had reached five (5) years permanent residence in [REDACTED]. The Petitioner did not provide her Permanent Resident card to the Department at any time prior to the hearing.
5. Beginning December 6, 2014, Petitioner's **application** was **approved** for Emergency Services Only (ESO) MA coverage. Exhibit B.
6. On August 18, 2015, 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.
7. On August 22, 2015, Petitioner requested a 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, Petitioner requested a hearing disputing the **denial** of full MA coverage. The Petitioner filed an application for MA on [REDACTED]. Thereafter, the Petitioner was approved for ESO medical assistance because the application filed by the Petitioner did not indicate that she was a citizen of the U.S. or a permanent resident. The Petitioner did not provide her Permanent Resident card to the Department at the time of the application or thereafter. The Petitioner was approved for ESO beginning March 2015 ongoing. At the hearing, the Petitioner testified under oath that she had been a Permanent Resident of the U.S. since [REDACTED]. At the time of the [REDACTED], application, the Petitioner was not qualified for full MA due to her permanent residence of less than five (5) years. The Petitioner became qualified the following month but did not advise the Department of her status on her application.

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. 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.

At the time of the application because the Petitioner did not advise of her Permanent Resident status the Department correctly found the Petitioner eligible for ESO medical assistance. Department policy provides under these circumstances:

When an applicant for Medicaid claims to be a U.S. citizen or to have qualified immigrant status, and all other eligibility factors are met, certify benefits. Once the case has been open and coverage entered in Bridges, verification of citizenship must be completed.

Attempt to verify citizenship through a data match such as the Social Security Administration or a MDHHS vital records match. MAGI- related applicants will have citizenship and identity verified if the application comes to Michigan Department of Health & Human Services (MDHHS) via the Federally Facilitated Marketplace (FFM) or MAGI rules engine. If there is a discrepancy with the information or it is not available then contact with the beneficiary is necessary. BAM 130, (January 1, 2016) p. 4-5.

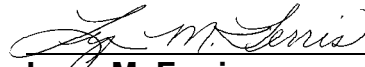
At the hearing, the Department advised the Petitioner to provide the Department with her Permanent Resident card and her MA eligibility will be redetermined upon receipt of the card.

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



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]

cc:

[REDACTED]