



RICK SNYDER  
GOVERNOR

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

MIKE ZIMMER  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: March 10, 2016  
MAHS Docket No.: 15-023976  
Agency No.: [REDACTED]  
[REDACTED]

**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 March 3, 2016, from Detroit, Michigan. Petitioner was present at the hearing and requested that her husband, [REDACTED], serve as her representative. The Department was represented by [REDACTED], Assistance Payment Worker. [REDACTED] served as translator ([REDACTED]) 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 December 23, 2014, Petitioner applied for MA (Exhibit A, pp. 6-14).
2. On the date of MA application, Petitioner was not a United States citizen.

3. On December 29, 2014, the Department sent Petitioner a Health Care Coverage Determination Notice notifying her that she was eligible for Emergency Services Only (ESO) MA coverage from December 1, 2014 ongoing (Exhibit A, pp. 17-18).
4. On an unknown date, the Department issued a notice to the Petitioner indicating she may have been denied full MA coverage based on immigration status between January 2014 and May 2015.
5. On September 11, 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 her 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 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 Petitioner filed her hearing request, it reassessed her MA eligibility. After reviewing their files, the Department became aware that Petitioner was a permanent resident alien who had been a U.S. resident since

November 2006 (Exhibit A, p. 4). The Department acknowledged that Petitioner had been a permanent resident for more than five years at the time of application. Because she had been a U.S. permanent resident for more than five years, Petitioner was eligible for full-coverage MA.

The Department testified that it had converted the improper ESO coverage to full-coverage MA for the period December 2014 to November 2015. On October 8, 2015, the Department sent Petitioner a Health Care Coverage Determination Notice notifying her that she was approved for full coverage MA from December 2014 ongoing (Exhibit A, pp. 19-20). The Department also provided a Medicaid eligibility summary showing that Petitioner received full-coverage MA between December 1, 2014 and November 30, 2015 (Exhibit A, pp. 15-16). Petitioner, as discussed above, is eligible for full-coverage MA as shown on the Medicaid eligibility summary. However, based on the record provided, the Department improperly designated Petitioner's eligibility based on U.S. citizenship rather than eligible permanent residency status. This error is clearly a clerical error and harmless but should be corrected to avoid any discrepancies.

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 concluded that Petitioner was eligible for full-coverage MA but improperly designated Petitioner as a U.S. citizen rather than eligible permanent resident when determining MA eligibility.

It is further noted that evidence at the hearing showed that Petitioner's MA case closed effective November 30, 2015. The Department explained that the closure was due to Petitioner's failure to submit a completed redetermination. Because the closure was unrelated to the issue of Petitioner's alien status and the issue of whether she was eligible for ESO or full-coverage MA, the parties were advised that the issue of the case closure was not properly presented for hearing and it is not addressed in this Hearing Decision. Petitioner's husband is advised that Petitioner may request a hearing concerning the case closure or reapply for benefits.

### **DECISION AND ORDER**

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

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Correct Petitioner's full-coverage MA eligibility status to be based on eligible permanent residency status, not U.S. citizenship, for the period January 1, 2014 to November 30, 2015.



ACE/tlf

---

**Alice C. Elkin**

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]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Petitioner

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

[REDACTED]