



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 8, 2016  
MAHS Docket No.: 15-023980  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Colleen Lack

### **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 16, 2016, from Lansing, Michigan. [REDACTED] the Petitioner, appeared on his own behalf. [REDACTED], friend, appeared as a witness for Petitioner. The Department was represented by [REDACTED], Eligibility Specialist. [REDACTED], [REDACTED], provided interpretation services during the hearing.

The Department's Hearing Summary Packet was admitted as Department Exhibit A, pp. 1-19.

### **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 June 4, 2014, Petitioner applied for MA benefits. (Department Exhibit A, pp. 5-11)

2. On June 4, 2014, the Department requested verification of Petitioner's alien status. (Department Exhibit A, pp. 17-18)
3. On June 12, 2014, the Department received verification of Petitioner's immigration status, specifically a copy of an Immigrant Visa noting "upon endorsement serves as a temporary I-551 evidencing permanent residence for 1 year." (Department Exhibit A. p. 19)
4. Petitioner was approved for Emergency Services Only (ESO) MA coverage starting March 1, 2014. (Department Exhibit A, pp. 12-14)
5. On September 8, 2015, Petitioner requested a hearing. (Department 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 denial of full MA coverage. (Department Exhibit A, p. 2)

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 1, 2014), p. 2.

#### **FIP, SDA, MA, and AMP**

- Alien admitted into the U.S. with one of the following immigration statuses:
  - Permanent resident alien with a class code on the I-551 other than RE, AM or AS.
  - Alien paroled into the U.S. for at least one year under INA Section 212(d)(5).

**Exception (both statuses above):** The eligibility of an alien admitted into the U.S. on or after August 22, 1996, with one of these statuses is restricted as follows unless the alien is a qualified military alien or the spouse or dependent child of a qualified military alien:

- **For FIP**, an individual is disqualified for the first five years in the U.S.
  - **For SDA**, an individual is disqualified.
  - **For MA and AMP** an individual is limited to emergency services for the first five years in the U.S.
- Alien granted conditional entry under INA section 203(a)(7).
  - Permanent resident alien with an I-151, Alien Registration Receipt Card.

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#### **MA and AMP**

- Alien paroled into the U.S. for less than one year under INA Section 212(d)(5). Coverage is limited to emergency services only.
- Non-immigrant--an alien temporarily in the U.S. for a specific purpose (for example, student, tourist). The alien must not have exceeded the time period authorized by USCIS. For both MA and AMP, coverage is limited to emergency services only.
- Person who does not meet any of the MA citizenship/alien statuses above--limited to coverage of emergency services only. This includes, for example, undocumented aliens and non-immigrants who have stayed beyond the period authorized by USCIS.

(BEM 225, pp. 7-9)

On the June 4, 2014, MA application, Petitioner did not attest to being a United States citizen. (Department Exhibit A, p. 7) That same date, the Department requested verification of Petitioner's alien status. (Department Exhibit A, pp. 17-18) On June 12, 2014, the Department received verification of Petitioner's immigration status, specifically a copy of an Immigrant Visa noting "upon endorsement serves as a temporary I-551 evidencing permanent residence for 1 year." (Department Exhibit A. p. 19) Petitioner

confirmed that he came to the United States in May 2014, with his father. (Petitioner Testimony)

Under the above cited BEM 225 policy, and based on Petitioner's immigration status at that time, the Department properly determined that Petitioner's MA coverage was limited to emergency services only.

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 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**.

CL/mc



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**Colleen Lack**

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]