



RICK SNYDER
GOVERNOR

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

MIKE ZIMMER
DIRECTOR



Date Mailed: March 1, 2016
MAHS Docket No.: 15-024660
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 29, 2016, from Detroit, Michigan. The Petitioner was represented by [REDACTED]. The Department was represented by [REDACTED]. [REDACTED] 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 May 14, 2014, Petitioner applied for MA benefits. Exhibit 1.
2. On the date of MA application, Petitioner was not a United States (U.S.) citizen.

3. The Petitioner in her MA application indicated that she had resident status. The Petitioner has been a permanent resident since December 26, 2011. Exhibits 1 and 4.
4. A Health Care Coverage Determination Notice was sent on October 26, 2015, finding that beginning May 1, 2014, ongoing through November 2015 the Petitioner's **MA application** was **approved for full** MA coverage. Exhibit 6.
5. A Health Care Coverage Determination Notice was sent on October 29, 2015, finding that beginning December 1, 2015, ongoing the Petitioner's **MA application** was **approved** for Emergency Services Only (ESO) MA coverage based on her immigration status. Exhibits 7 and 4.
6. On unknown date, 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 31, 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 ESO **MA and denial** of full MA coverage. Since her application on May 1, 2014, for MA, the Petitioner has been eligible for ESO MA until recently when the Department gave the Petitioner full coverage MA from May 2014 ongoing. Exhibit 6. Thereafter, the Department reverted the Petitioner's MA coverage to ESO MA coverage by Notice October 29, 2015, due to her immigration status effective December 1, 2015. Exhibits 7 and 4.

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. Petitioner testified that she is not a U.S. citizen and has been a permanent resident

since [REDACTED] 2011. Exhibit 4. At time of application, Petitioner's status was a permanent resident. Exhibit 1.

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. Non-citizens receiving ESO MA do not have to verify alien status. BEM 225, p. 20. A person who is unable to obtain verification of alien status or refuses to cooperate in obtaining it is limited to ESO until verification is obtained. BEM 225, p. 20.

The Department testified that after Petitioner filed her hearing request, it reassessed her MA eligibility. Based on Petitioner's statements in her MA application that she was not a U.S. citizen but had eligible immigration status and that she was a permanent resident, it reassessed her MA eligibility and activated full-coverage MA for Petitioner. On October 26, 2015, the Department sent Petitioner [REDACTED] a Health Care Coverage Determination Notice showing that it had changed Petitioner's coverage for May 2014 through November 2015 to full-coverage MA (Exhibit 6, p. 29). The Department decided administratively to make the change to full coverage MA due to the application statements, not the immigration status.

The Department changed Petitioner [REDACTED] coverage back to ESO beginning December 1, 2015. Exhibit 7. The only issue presented is whether coverage was properly converted back to ESO. The evidence presented by the Department, from its Bridges system and the Petitioner's testimony, established that Petitioner, entered the U.S. on December 26, 2011, with a Category F43. Exhibit 4. There was no eligible asylum or refugee status identified as evidence presented regarding the permanent residency card. Further, there was no evidence in the application that Petitioner had served in the U.S. military or was the spouse of a service person. Because Petitioner had not been a resident aliens for five years, had not served in the U.S. military, and did not have asylum or refugee status, Petitioner [REDACTED] is not eligible for full-coverage MA. Therefore, the Department properly converted the Petitioner's MA coverage to ESO coverage effective December 1, 2015. The Petitioner is approaching five years permanent resident in December 2016 and should re-apply for MA at that time.

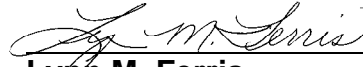
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department properly

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**

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]