



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 15, 2016
MAHS Docket No.: 15-024730
MAHS Docket No.: 15-021221
Agency No.: [REDACTED]
Petitioner: [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. Petitioners filed requests for hearings; and accordingly, these matters are 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, 2015, from Detroit, Michigan. The Petitioners were represented by Petitioner [REDACTED]. The Department was represented by [REDACTED], Eligibility Specialist. [REDACTED], of [REDACTED], served as translator during the hearings.

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 [REDACTED], Petitioners applied for MA benefits. Exhibit A.
2. On the date of the MA application, Petitioners [REDACTED] and M [REDACTED] [REDACTED] were husband and wife and were not United States (U.S.) citizens.

3. The Petitioners [REDACTED] and [REDACTED] have Permanent U.S. resident status as of [REDACTED]. At the time of the application, the Petitioners had not been in the U.S. as permanent residents for five (5) years.
4. On [REDACTED], the Department issued a notice to the Petitioners **approving** Petitioners for Emergency Services Only (ESO) MA coverage.
5. Petitioner [REDACTED] received a Benefit Notice dated [REDACTED], advising that her ESO MA had been changed to full MA from January [REDACTED] through February [REDACTED]. On the April [REDACTED] application, Petitioner [REDACTED] indicated that she had eligible immigration status. Exhibits A and B. ([REDACTED] Hearing Packet - MAHS Docket No.: [REDACTED]).
6. Petitioner [REDACTED] received a Benefit Notice dated [REDACTED], advising that his ESO MA had been changed to full MA from January [REDACTED] through September [REDACTED]. On the April [REDACTED] application, Petitioner [REDACTED] indicated that he had eligible immigration status. Exhibits A and B. ([REDACTED] Hearing Packet – MAHS Docket No.: [REDACTED]). The Petitioners filed one application, and there were two separate Benefit Notices issued to Petitioners [REDACTED] and [REDACTED] with different dates.
7. On a date unknown, the Department issued a notice to the Petitioners indicating he and/or she might have been denied full MA coverage based on immigration status between January [REDACTED] and May [REDACTED].
8. On September 3, 2015, Petitioners 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 these cases, Petitioners requested a hearing disputing the Department granting them ESO MA rather than full-coverage MA. Petitioner [REDACTED] and Petitioner [REDACTED] are husband and wife and are in the same medical group. 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 these cases, the Department testified that after Petitioners filed their hearing request, it reassessed MA eligibility. Based on Petitioner [REDACTED] and Petitioner [REDACTED] statements in their MA application that they were not U.S. citizens but had eligible immigration status, it reassessed their eligibility and activated full-coverage MA for Petitioner [REDACTED] and Petitioner [REDACTED]. In a Benefit Notice dated [REDACTED], the Department advised Petitioner [REDACTED] that his ESO MA had been changed to full MA from January [REDACTED] through September [REDACTED]. On [REDACTED] the Department sent Petitioner [REDACTED] a Benefit Notice showing that it had changed her coverage for January [REDACTED] through February [REDACTED] to full-coverage MA (Exhibit B). Currently, the Petitioners are not eligible for ESO as they have not been permanent residents for five (5) years.

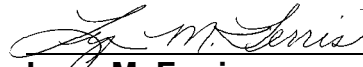
The Department changed Petitioner [REDACTED] coverage back to ESO beginning October [REDACTED] and [REDACTED] coverage back to ESO in March [REDACTED]. The only issue presented is whether coverage was properly converted back to ESO. The evidence presented by the Department, namely the testimony of the Department and that of Petitioner confirming the same permanent residency card, established that Petitioners had entered the U.S. on [REDACTED]. There was no evidence presented of eligible asylum or refugee status identified on the permanent residency card. Further, there was no evidence in the application that Petitioners had served in the U.S. military or was the spouse of a service person. Because Petitioners had not been resident aliens for 5 years, had not served in the U.S. military, and did not have asylum or refugee status, they were not eligible for full-coverage MA. Therefore, the Department properly converted Petitioners' full MA coverage to ESO coverage effective the dates referenced above. In [REDACTED], the Petitioners will have completed five (5) years of permanent residence; and at that time, they will have eligible immigration status.

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 Petitioners' 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]

Petitioner

[REDACTED]

cc:

[REDACTED]