



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 23, 2016  
MAHS Docket No.: 15-024764  
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 March 1, 2016, from Lansing, Michigan. The Petitioner was represented by [REDACTED], son in law and Authorized Hearing Representative (AHR). The Department was represented by [REDACTED], Eligibility Specialist.

During the hearing proceedings, the Department's Hearing Summary packet was admitted as Department Exhibit A, pp. 1-25.

### **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 April 4, 2014, Petitioner applied for MA. (Department Exhibit A, pp. 5-15)

2. On the April 4, 2014, MA application, Petitioner attested to having eligible immigration status. (Department Exhibit A, p. 8)
3. Petitioner's April 4, 2014, MA application was initially approved for Emergency Services Only (ESO) MA coverage. (Department Exhibit A, pp. 21-23)
4. On April 24, 2014, Petitioner applied for Food Assistance Program (FAP) benefits, at which time the Department became aware that Petitioner did not have eligible immigration status for MA based on the listed date of entry of June 25, 2013. (Eligibility Specialist Testimony)
5. On May 14, 2015, Petitioner re-applied for FAP benefits and again attested to having eligible immigration status. (Eligibility Specialist Testimony)
6. On September 8, 2015, Petitioner filed a hearing request contesting the Department's determination. (Department Exhibit A, p. 2)
7. Petitioner has been a Permanent Resident of the United States of America since February 20, 2014. (Department Exhibit A, p. 20)
8. The Department subsequently approved full MA coverage for April 2014, and March 2015 through January 2016. (Department Exhibit A, pp. 16-19)
9. On January 26, 2016, a Benefit Notice was issued to Petitioner stating she was eligible for full Medicaid coverage beginning April 2014 and March 2015 through January 2016. (Department Exhibit A, pp. 24-25)

### **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.

For MA, an individual under specific immigration statuses is limited to emergency services for the first five years in the U.S. (BEM 225, pp. 7-8)

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 DCH vital records match. MAGI- related applicants will have citizenship and identity verified if the application comes to DHS 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; see BEM 221 and 225. BAM 130, (October 1, 2014), p. 4.

On April 4, 2014, Petitioner applied for MA. (Department Exhibit A, pp. 5-15) Petitioner's April 4, 2014, MA application was initially approved for Emergency Services Only (ESO) MA coverage. (Department Exhibit A, pp. 21-23)

Petitioner has been a Permanent Resident of the United States of America since February 20, 2014. (Department Exhibit A, p. 20) Accordingly, Petitioner would be limited to ESO MA for the first five years in the U.S. under the BEM 225 policy.

However, on the April 4, 2014, MA application, Petitioner attested to having eligible immigration status. (Department Exhibit A, p. 8) Accordingly, the BAM 130 policy allowing for full MA coverage to be certified pending verification should have been applied when Petitioner's application was initially processed.

In considering which months should be corrected to full MA coverage for the verification period pursuant to the BAM 130 policy, the Department also considered the information Petitioner reported on Food Assistance Program (FAP) applications filed in April 2014 and May 2015.

As noted above, on the April 4, 2014, MA application, Petitioner attested to having eligible immigration status. (Department Exhibit A, p. 8) However, on April 24, 2014, Petitioner applied for FAP benefits, at which time the Department became aware that Petitioner did not have eligible immigration status for MA based on a listed date of entry of June 25, 2013. (Eligibility Specialist Testimony) Accordingly, from the April 4, 2014, MA application, the Department only updated April 2014 to full MA coverage for a verification period because by May 2014, the Department had received additional information indicating Petitioner did not have eligible immigration status for MA.

When Petitioner re-applied for FAP on May 14, 2015, she again attested to having eligible immigration status. (Eligibility Specialist Testimony) The Department updated March 2015 through January 2016 to full MA coverage for a verification period because

Petitioner had again attested to having eligible immigration status. (Department Exhibit A, pp. 16-19; Eligibility Specialist Testimony)

On January 26, 2016, a Benefit Notice was issued to Petitioner stating she was eligible for full Medicaid coverage for April 2014 and March 2015 through January 2016. (Department Exhibit A, pp. 24-25) These updates to Petitioner's MA coverage, based on Petitioner's varied answers to the question about having eligible immigration status over three applications, were in accordance with the above cited BAM 130 and BEM 225 policies.

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 has already updated their determination about MA eligibility based on Petitioner's immigration status for the relevant time periods to full MA coverage.

### **DECISION AND ORDER**

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

CL/mc



---

**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]

[REDACTED]

**Authorized Hearing Rep.**

[REDACTED]

**Petitioner**

[REDACTED]