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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 14, 2016
MAHS Docket No.: 15-024889
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 three-way telephone conference hearing was held on March 10, 2016, from Lansing, Michigan. The Petitioner was represented by [REDACTED] (Authorized Hearing Representative (AHR)). The Department was represented by [REDACTED] (Eligibility Specialist).

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 October 3, 2006, Petitioner entered the United States from Albania.
2. On or about November 21, 2013, Petitioner applied for MA benefits. [Exh. 1, pp. 9-29].
3. On the date of MA application, the Petitioner was a permanent resident.

4. On December 9, 2013, the Department mailed Petitioner a Notice of Case Action (DHS-1605) which approved Petitioner's MA application for Emergency Services Only (ESO) MA coverage. [Exh. 1, pp. 45-47].
5. On April 7, 2015, Petitioner applied for MA benefits. [Exh. 1, pp. 30-39].
6. In August, 2015, the Department issued a notice to the Petitioner indicating that she may have been denied full MA coverage based on immigration status between January 2014 and May 2015.
7. On September 4, 2015, Petitioner requested a hearing to dispute the decision to approve the application for MA ESO rather than full MA coverage. [Exh. 1, p. 2].
8. On February 2, 2016, the Department mailed Petitioner a Retroactive Period/Corrective Action Eligibility Notice (DHS-333) that indicated Petitioner may be eligible for reimbursement of her medical bills in the 3 months before she applied for MA benefits. [Exh. 1, p. 48].

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), 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.

Policy requires the Department determine the alien status of each non-citizen requesting benefits at application, member addition, redetermination and when a change is reported. BEM 225 (1-1-2014), p. 1.

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, p. 2. The alien status of each non-citizen must be verified to be eligible for full MA coverage. BEM 225, p. 2.

A person claiming U.S. citizenship is not eligible for ESO coverage. BEM 225, p. 2. U.S. citizenship must be verified with an acceptable document to continue to receive Medicaid. BEM 225, p. 2. Citizenship/alien status is not an eligibility factor for emergency services only (ESO) MA. However, the person must meet all other eligibility factors, including residency. BEM 225, p. 2.

MA coverage is limited to emergency services for any: (1) persons with certain alien statuses or U.S. entry dates as specified in policy; (2) persons refusing to provide citizenship/alien status information on the application; and/or (3) persons unable or refusing to provide satisfactory verification of alien information. BEM 225, p. 3. All other eligibility requirements including residency **must** be met even when MA coverage is limited to emergency services. BEM 225, p. 3.

Persons listed under the program designations in Acceptable Status meet the requirement of citizenship/alien status. Eligibility may depend on whether or not the person meets the definition of Qualified Alien. BEM 225, p. 3.

"Qualified alien" means an alien who is lawfully admitted for **permanent residence** under the INA. BEM 225, p. 4 (Emphasis added). For MA, an individual is limited to emergency services for the first five years in the U.S. BEM 225, p. 8.

The coverage of a person who is unable to obtain verification of alien status or refuses to cooperate in obtaining it is limited to emergency services until verification is obtained. BEM 225, p. 20.

In this case, Petitioner's AHR testified credibly that Petitioner entered the U.S. and has been a permanent resident since October 3, 2006. The Department failed to include any other notices of case action or other relevant documents in the record. Without the additional relevant documentation, the Administrative Law Judge is unable to affirm that the Department followed policy at all times. Based on this record, it appears that at time of application, Petitioner had been in the U.S. for 7 years and was a permanent resident. According to BEM 225, page 4, Petitioner was eligible for ESO MA benefits rather than ESO benefits.

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 **did not** properly determine 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 **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. Redetermine MA eligibility in accordance with Department policy.

2. Notify Petitioner in writing of the Department's new MA eligibility determination.



CP/las

C. Adam Purnell
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date. A copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

DHHS



Petitioner



Authorized Hearing Rep.

