



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 14, 2016  
MAHS Docket No.: 15-024938  
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. Petitioner participated in the hearing via telephone and provided testimony. The Department was represented by [REDACTED] (Eligibility Specialist). [REDACTED] ([REDACTED] # [REDACTED]) served as a 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 April 10, 2012, Petitioner entered the United States from Yemen. [Exhibit 1, p. 30].
2. On November 9, 2012, Petitioner applied for MA benefits. [Exh. 1, pp. 4-28].

3. On the date of MA application, the Petitioner was a permanent resident. [Exh. 1, p. 30].
4. On November 14, 2012, the Department mailed Petitioner a Notice of Case Action (DHS-1605) which indicated that Petitioner was approved for Emergency Services Only (ESO) MA coverage effective November 1, 2012. [Exh. 1, pp. 38-40].
5. In August, 2015, the Department issued a notice to the Petitioner indicating that he may have been denied full MA coverage based on immigration status between January 2014 and May 2015.
6. 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].
7. On, the Department mailed Petitioner a Retroactive Period/Corrective Action Eligibility Notice (DHS-333) that indicated that Petitioner may be eligible for reimbursement of medical bills paid after November 9, 2012. [Exh. 1, p. 41].

### **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.

In this case, Petitioner requested a hearing disputing the activation of ESO MA coverage. The Department contends that Petitioner was not eligible for ESO MA coverage because he has not been in the U.S. for five years or more.

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. 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 testified that he had been in the U.S. since April, 2012. The record shows that this is correct. [Exh 1, p. 30]. At time of application, Petitioner had not been in the U.S. for at least 5 years. According to BEM 225, page 4, Petitioner was eligible for ESO MA benefits. Petitioner may be eligible for full MA after April, 2017 provided he meets all other eligibility criteria.

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** 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 **AFFIRMED.**

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**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).

A party may request a rehearing or reconsideration of this Hearing Decision from MAHS within 30 days of the mailing date of this Hearing Decision, or MAHS **MAY** order a rehearing or reconsideration on its own motion.

MAHS **MAY** grant a party's Request for Rehearing or Reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

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]