



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: April 4, 2016
MAHS Docket No.: 15-019382
MAHS Docket No.: 15-019381
MAHS Docket No.: 15-019380
MAHS Docket No.: 15-019383
Agency No.: [REDACTED]
Petitioner: [REDACTED]
Petitioner: [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 (MA) 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 14, 2016, from Detroit, Michigan. The Petitioner was represented by herself. Petitioner [REDACTED] also was the Authorized Hearing Representative (AHR) for her three (3) minor children: [REDACTED], [REDACTED], and [REDACTED]. The Department was represented by [REDACTED], Eligibility Specialist. [REDACTED] served as a [REDACTED] 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 November 6, 2014, Petitioner applied for MA for herself and her three (3) minor children. Exhibit 1.
2. On the date of MA application, Petitioner was not a United States (U.S.) citizen.
3. On the date of the application, the Petitioner and her three (3) children were refugees under section 207 of the United States Immigration Act. Exhibit 2.
4. On October 2, 2015, the Department issued a benefit notice advising the Petitioner that she was eligible for full health care coverage effective October 1, 2014. The notice did not mention her children who would also be eligible. Exhibit 3.
5. On October 15, 2015, the Department issued a benefit notice to [REDACTED] providing full coverage MA beginning December 1, 2014.
6. On October 15, 2015, the Department issued a benefit notice to [REDACTED]. No benefit notice was available or presented for Petitioner [REDACTED].
7. The Petitioner and her three (3) children are in the same medical group.
8. On an 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.
9. On September 26, 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 Department's determination that she and her three (3) children were not eligible for full MA. At the hearing, it was established by the Department that it had corrected its error and activated full coverage MA as of October 1, 2014. Also established at the hearing was that the Petitioner and her three (3) children were admitted into the U.S. as refugees under Section 207 of the Immigration Act.

Department policy found BEM 225 provides that persons admitted to the U.S. under Section 207 who are refugees under Section 207 are eligible for FIP cash assistance, child development and care (child care, food assistance benefits **and medical assistance**. BEM 225 (October 1, 2015) p. 32.

Thus, based on the evidence presented, it is determined that the Department properly determined the Petitioner was eligible for full MA coverage at the time of her application, November 1, 2014, as she was admitted to the U.S. as a refugee as were her three (3) children. Although evidence presented in the hearing indicated that the Department had corrected the Petitioner's case, the evidence presented for two (2) of her children, [REDACTED] and [REDACTED] indicated that the Department had activated coverage for December 2014 rather than November 2014, which was the month of the application. Exhibit 1. No benefit notice was provided for Petitioner's child, [REDACTED].

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. However, the Department did not establish by its evidence that the Petitioner's children, who were part of her MA group, were also granted full MA coverage beginning November 2014, and thus, did not meet its burden of proof.

DECISION AND ORDER

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

The Department is **AFFIRMED** with respect to its determination regarding the Petitioner, [REDACTED].

The Department is **REVERSED** with respect to its determination regarding the remaining Petitioners.

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. The Department shall update the October 15, 2015, benefit notices for [REDACTED] 15-019383 and [REDACTED] 15-019380 so that the coverage for their MA is effective November 1, 2014, ongoing if it has not already done so.
2. The Department shall also issue a benefit notice for Petitioner's child [REDACTED] if it has not already done so, indicating full MA coverage beginning November 1, 2014, ongoing.
3. The Department shall provide the Petitioner written notice regarding the results of its review and update of Petitioner's childrens' MA effective coverage dates.

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]

cc:

[REDACTED]