



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 31, 2016
MAHS Docket No.: 15-022747
MAHS Docket No. : 15-022749
MAHS Docket No.: 15-022748
Agency No.: [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 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 30, 2016, from Detroit, Michigan. The Petitioner was represented by himself. The Petitioner also represented his two minor children, [REDACTED] and [REDACTED]. The Department was represented by [REDACTED], Eligibility Specialist. [REDACTED] served as 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 December 22, 2014, Petitioner applied for MA.

2. On the date of MA application or redetermination, Petitioner and his two minor children, [REDACTED] and [REDACTED] were not United States (U.S.) citizens.
3. On the MA application, the Petitioner indicated he had eligible immigration status as did his son and daughter.
4. At the hearing, the permanent resident cards for the Petitioner, his son [REDACTED] and his daughter [REDACTED] all entered the U.S. as permanent residents on [REDACTED]. Exhibit 1 (all three registration numbers).
5. On a date unknown, 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.
6. The Department issued a Benefit Notice to the Petitioner and his two children indicating they had activated full health care coverage effective December 2014 through November 2015. The Department's explanation was that based on the MA application it relied on the attestation of the Petitioner that he had eligible immigration status.
7. The Petitioner's case closed in December 2015 and is not related to this hearing and resulted from the Petitioner's failure to provide a redetermination.
8. The Petitioner requested a hearing on August 28, 2015.

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.

This Hearing Decision will address the Petitioners' [REDACTED] and his two children's hearing requests in one hearing decision as the relevant and essential facts are the same for all Petitioners even though separate registration numbers have been assigned to each person they all have the same case number as they are part of the same medical group. In this case, Petitioner requested a hearing on behalf of himself and his

children disputing the Department's initial determination that he was eligible for ESO **MA rather than full coverage Medical Assistance.**

In this case, the Department testified that after Petitioners filed their hearing request, it reassessed MA eligibility and that it provided the Petitioner and his children full coverage MA because their application said that they had eligible immigration status. During the hearing, it was determined that the Petitioner and his children were not U.S. citizens and had permanent resident status as of [REDACTED].

In Benefit Notices dated December 11, 2015, the Department advised Petitioners their MA had been changed to full coverage Medicaid for the period December 2014 through November 2015 based because they had indicated eligible alien status. Thereafter, the Petitioners' MA closed due to failure to complete a redetermination, which is not an issue which is addressed at this hearing. The Petitioner was advised that he was required to reapply so he could be eligible for Emergency Services Only (ESO) MA.

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.

At the hearing, it was established based on the permanent resident cards contained in the hearing files for each of the Petitioners that their permanent residency in the U.S. began in April 2015; and therefore, they had not been permanent residents for five (5) years and, therefore, were not eligible for full medical assistance. In addition their immigration codes were [REDACTED] and thus they were ineligible as their codes were not RE, AM or AS

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.

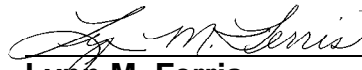
DECISION AND ORDER

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

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.

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]

Petitioner

[REDACTED]

cc:

[REDACTED]