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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

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Date Mailed: April 19, 2016
MAHS Docket No.: 15-024965
Agency No.: ██████████
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ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 via telephone conference on April 14, 2016, from Detroit, Michigan. Petitioner, a minor child, was represented by his mother, ██████████ ██████████. The Department was represented by ██████████ ██████████, Eligibility Specialist ██████████ ██████████, from a third party translator service, had initially served as translator but was disconnected during the hearing. The hearing proceeded with Petitioner's sister, ██████████ ██████████, serving as translator (Arabic) during the hearing. ██████████ ██████████ also testified as a witness on Petitioner's behalf.

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 July 3, 2013, an online application seeking MA benefits for Petitioner was submitted to the Department (Exhibit A, pp. 4-26).

2. On the date of MA application, Petitioner was not a United States citizen.
3. On July 31, 2013, the Department sent Petitioner's mother a Health Care Coverage Determination Notice notifying her that Petitioner was eligible for Emergency Services Only (ESO) MA coverage effective April 1, 2013 ongoing (Exhibit A, pp. 33-40).
4. On an unknown date, the Department issued a notice to Petitioner indicating he may have been denied full MA coverage based on immigration status between January 2014 and May 2015.
5. On October 26, 2015, Petitioner requested a hearing (Exhibit A, p. 2).

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 granting him ESO MA rather than full-coverage 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 (October 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. Persons refusing to provide citizen/alien status information on the application or unable or refusing to provide satisfactory verification of alien information are limited to ESO coverage. BEM 225, p. 3. The alien status of each non-citizen must be verified to be eligible for full MA coverage. BEM 225, p. 2.

In this case, the July 3, 2013 MA application indicates that Petitioner was not a U.S. citizen and that he entered the U.S. on March 19, 2013 (Exhibit A, p. 10). Because Petitioner was not identified as having eligible alien status, the Department acted in accordance with Department policy when it concluded that he was eligible for ESO coverage only. The evidence presented by the Department, namely the copy of Petitioner's permanent residency card, established that he had entered the U.S. from Iraq and had permanent resident status since March 2013 with a category F43 (Exhibit B, p. 4). There was no eligible asylum, Amerasian or refugee (AS, AM, or RE) status identified on the permanent resident card. Further, Petitioner's mother confirmed that neither she nor Petitioner's father had served in the U.S. military. Because Petitioner had not been a permanent resident for 5 years, his parents had not served in the U.S. military, and he did not have eligible asylum or refugee class status, he was not eligible for full-coverage MA.

The Medicaid Eligibility chart presented by the Department showed ongoing ESO coverage for Petitioner beginning July 2013. Although the chart showed that Petitioner received full-coverage MA for March 1, 2015 through February 29, 2016 (Exhibit A, pp. 28), the Department explained at the hearing that the full-coverage MA was erroneously applied to Petitioner's case and that his coverage was converted back to ESO beginning March 1, 2016. Based on Petitioner's immigration status, Petitioner was eligible for ESO MA only. Petitioner's mother was advised that if Petitioner incurred any medical expenses between March 2015 and February 2016, during which time he had full-coverage MA, she could seek to have the provider bill MA for such services.

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 properly determined 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**.

ACE/tlf



Alice C. Elkin

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

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