



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 8, 2016
MAHS Docket No.: 15-025362
Agency No.: [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 April 4, 2015, from Detroit, Michigan. The Petitioner was represented by herself. 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 June 3, 2014, Petitioner applied for MA benefits.
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 was a Permanent Resident with a U.S. entry date of [REDACTED]. Exhibit 1.

4. The Department issued a Benefit Notice on December 29, 2015 to correct the Petitioner's coverage to full coverage MA beginning June 1, 2014, through April 30, 2015, for Case Number [REDACTED]. This Notice was not for Petitioner's current active case but for her old case number, which is closed. Exhibit 2.
5. The Department issued a Health Care Coverage Determination Notice on April 10, 2015, finding the Petitioner eligible effective May 1, 2015, ongoing for Case Number [REDACTED] which is Petitioner's active case.
6. The Department issued a Health Care Coverage Determination Notice dated December 29, 2015, finding the Petitioner eligible September 1, 2015, ongoing for Case Number [REDACTED] which is Petitioner's active case. Exhibit 3.
7. The Petitioner does not have a medical health care card from the Department.
8. The Petitioner's Case Number [REDACTED] was closed and consolidated with Case Number [REDACTED] as she had two case numbers.
9. The MA eligibility summary indicated that Petitioner had full MA coverage ongoing to present for the period June 1, 2014, ongoing though February 2016; however the summary was for the Petitioner's case number that was closed.
10. 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. Exhibit 4.
11. On September 3, 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 was eligible for Emergency Services Only (ESO) MA rather than full coverage

MA. The Petitioner has been a permanent U.S. resident since [REDACTED] and thus, was eligible for full coverage MA at the time of application.

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. Non-citizens receiving ESO MA do not have to verify alien status. BEM 225, p. 20. A person who is unable to obtain verification of alien status or refuses to cooperate in obtaining it is limited to ESO until verification is obtained. BEM 225, p. 20.

The Department attempted to correct the determination that Petitioner was eligible for ESO and issued several Health Care Coverage Determination Notices based upon her old case, Number [REDACTED] Exhibit 2. (See Benefit Notice dated December 29, 2015, for full coverage June 1, 2014, through April 30, 2015.) Exhibit 2.

The Department presented a Health Care Coverage Determination Notice dated April 10, 2015, which provided that Petitioner had full MA ongoing from May 1, 2015, for Case Number [REDACTED]. A second Notice dated December 29, 2015, provided Petitioner is eligible from September 1, 2015, but does not say what type of eligibility Petitioner is eligible for. The Notice is defective as it does not indicate what kind of coverage was approved. Exhibit 3. Case Number [REDACTED] is Petitioner's current case number as her original case was closed and consolidated with Case Number [REDACTED].

The MA Eligibility Summary, provided by the Department at the hearing, was also for Petitioner's old case, Number [REDACTED] and thus, was not applicable to the Petitioner's active case.

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 (October 1, 2015), p. 33. Petitioner testified that she is a permanent resident of U. S. originally from [REDACTED] and has status as of [REDACTED]. At the time of application, Petitioner's status was permanent resident since [REDACTED]. Exhibit 1.

The Petitioner testified at the hearing that she had never received a medical benefit card from the Department. Also, based upon the proofs provided, the Department must correct all periods for Case Number [REDACTED] as no such proofs were presented to demonstrate full MA coverage beginning June 2014 ongoing. The two notices relevant

to Petitioner's current case number only cover the months of May 2015 and September 2015 ongoing. The proofs presented by the Department were confusing, and it could not be determined whether the Department had corrected the case fully prior to and after closure of Petitioner's case, Number [REDACTED] and consolidation with her new active case, Number [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 not** properly determine Petitioner's immigration status or citizenship when determining MA eligibility.

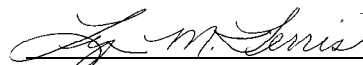
DECISION AND ORDER

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 and issue a Benefit Notice for Case Number [REDACTED] to correct all MA coverage from the application date of June 3, 2014, ongoing so that Petitioner's current case has full coverage with no gaps in coverage from when the original case, Number [REDACTED] was closed and consolidated with the currently active case.
2. The Department shall issue the Petitioner an MA health care card for her use for full coverage MA and with the correct case number.
3. Notify Petitioner in writing of the Department's 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]

cc:

[REDACTED]