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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

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

Date Mailed: April 19, 2016  
MAHS Docket Nos.: 15-025413; 15-025414  
15-025415; and 15-025416  
Agency No.: [REDACTED]  
Petitioners: [REDACTED]  
[REDACTED] a

**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 3-way telephone conference on April 14, 2016, from Detroit, Michigan. The hearings were consolidated for Petitioner [REDACTED] (HM), registration no. 15-025413, and his children, Petitioners [REDACTED] (SM), registration no. 15-025414, [REDACTED] (JS), registration no. 15-025415, and [REDACTED] (TS), registration no. 15-025416. The household was represented by [REDACTED] (JK), HM's wife and the children's mother. The Department was represented by [REDACTED], Eligibility Specialist.

**ISSUE**

Did the Department properly determine Petitioners' 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 9, 2011, Petitioners' representative applied for MA benefits for all household members (Exhibits A, pp. 5-24; Exhibit C, pp. 5-24; Exhibit D, pp. 5-24).
2. On March 31, 2014, Petitioners' representative filed a MA application, MDCH-1426, seeking MA for herself and SM, who was born April 30, 1995 (Exhibit B, pp. 5-17).
3. On the date of MA applications, Petitioners were not United States citizens.
4. The Department approved Petitioners for Emergency Services Only (ESO) MA coverage.
5. On an unknown date, the Department issued a notice to the Petitioners indicating they may have been denied full MA coverage based on immigration status between January 2014 and May 2015.
6. On October 2, 2015, the Department received Petitioners' request for 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, Petitioners requested hearings to challenge the Department providing them with ESO MA rather than full-coverage MA. At the hearing, Petitioners' representative established that she was the wife of HM and mother of SM, JS, and TS. JS and TS are minor children. Petitioner had authority to represent her husband and minor children at the hearing. BAM 600 (April 2015). SM, who was [REDACTED] years old at the time of hearing, is an adult. Although SM's case was discussed at the hearing, because SM did not grant his mother authority to act as his authorized hearing representative, JK was not authorized to represent him at the hearing. JK testified at the hearing that SM was not available. Because SM was not available to participate in the hearing at the scheduled date and time scheduled for the hearing and he did not authorize JK to act as his*

*representative, SM's hearing request under registration no. 15-025414 is DISMISSED. The hearing requests for Petitioners HM, JS, and TS only are addressed in this Hearing Decision.*

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 their December 9, 2011 MA application, Petitioners stated they were not U.S. citizens and indicated that their date of entry into the U.S. was December 9, 2010 (Exhibit A, pp. 8-10, 12). Because Petitioners indicated that they entered the U.S. in December 2010, they were not U.S. permanent residents for five or more years at the time of application. Further, no one in the household was identified in the application as having served in the U.S. military and there was no evidence that any one had a class code of RE, AS, or AM on their permanent resident cards. Because at the time of MA application, the evidence showed that Petitioners had not been permanent resident aliens for five or more years, did not have eligible class code, and were not qualified military aliens, they were not eligible for full-coverage MA at that time.

However, Petitioners, who entered the U.S. in December 2010, were eligible for full-coverage MA as of December 2015. The Department presented documentation that HM received full-coverage from February 1, 2015 ongoing (Exhibit A, pp. 26-27); *SM received full-coverage MA from April 1, 2014 ongoing (Exhibit B, pp. 18-20)*; and JS and TS received full-coverage MA from August 1, 2015 ongoing (Exhibit C, pp. 25-26; Exhibit D, pp. 25-26).

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 properly determined Petitioners' immigration status or citizenship when determining MA eligibility.

**DECISION AND ORDER**

*Petitioner SM's hearing request is **DISMISSED**.*

The Department's MA eligibility determination about Petitioners HM, **SM**, JS, and TS based on immigration status is **AFFIRMED**.



ACE/tlf

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**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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