

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

IN THE MATTER OF:

██████████	MAHS Reg. No.:	15-020390
██	Issue No.:	2001
████████████████████	██	████████████████████
██████████	Hearing Date:	February 23, 2016
██████████	██████████	██

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 February 23, 2016, from Lansing, Michigan. The Petitioner was represented by herself and her daughter who served as translator and authorized representative, ██████████. The Department was represented by ██████████, 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 October 29, 2014, the Petitioner applied for MA or had a redetermination of current MA benefits.
2. On the date of MA application or redetermination, Petitioner was an eligible applicant for full MA because she entered the country in December 23, 1974 with a green card according to her daughter's testimony at the hearing. However, the Department did not ask for verification of citizenship after receiving the Petitioner's

application when the Petitioner did not attest to being a US citizen or having eligible immigrations status.

3. Beginning October 2014, Petitioner's MA **application** was **approved** for Emergency Services Only (ESO) MA coverage.
4. Subsequently, 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.
5. 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 **conversion to ESO MA and/or activation/denial** of full MA coverage. On October 29, 2014, the Petitioner applied for MA or had a redetermination of current MA benefits. On the date of MA application or redetermination, Petitioner was an eligible applicant for full MA because she entered the country in December 23, 1974 with a green card according to her daughter's testimony at the hearing. However, the Department did not ask for verification of citizenship after receiving the Petitioner's application when the Petitioner did not attest to being a US citizen or having eligible immigrations status. Beginning October 2014, Petitioner's MA **application** was **approved** for Emergency Services Only (ESO) MA coverage. Subsequently, 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. On September 3, 2015, Petitioner requested a hearing.

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. Petitioner's daughter testified that the Petitioner had an eligible immigration status. At time of application or redetermination, Petitioner or Petitioner's family member status was unverified eligible

immigration status. The Department failed to send a Verification Checklist, DHS 3500, to have the Petitioner verify her immigrations status.

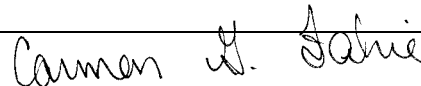
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department **did not** properly determine Petitioner's immigration status or citizenship when determining MA eligibility.

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 by verifying the Petitioner's eligible immigration status.
2. Notify Petitioner in writing of the Department's new MA eligibility determination.



Carmen G. Fahie
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Mailed: March 7, 2016

CGF/ dbdb

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]