



RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM  
Christopher Seppanen  
Executive Director

SHELLY EDGERTON  
DIRECTOR

[REDACTED]

Date Mailed: May 3, 2016  
MAHS Docket No.: 15-024943  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Colleen Lack

### **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 12, 2016<sup>1</sup>, from Lansing, Michigan. The Petitioner was represented by [REDACTED], daughter. [REDACTED], the Petitioner appeared and testified. [REDACTED], daughter, appeared as a witness for Petitioner. The Department was represented by [REDACTED], Eligibility Specialist. [REDACTED], [REDACTED], provided interpretation services during the hearing.

During the hearing proceedings, the Department's Hearing Summary packet for Petitioner's case was admitted as Department Exhibit B, pp. 1-22. The Department's Hearing Summary packet for Petitioner's son's case was admitted as Department Exhibit A, pp. 1-27.

### **ISSUE**

Did the Department properly determine Petitioner's immigration status or citizenship when determining Medicaid (MA) eligibility?

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<sup>1</sup> The Petitioner's case was held in conjunction with 15-024813. The Petitioners in both cases are family members and the appeals involved the same types of case actions.

### **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 November 10, 2014, a Redetermination form was issued to Petitioner regarding MA and food benefits for the family. (Exhibit A, pp. 4-9)
2. On April 30, 2015, Petitioner applied for MA. (Department Exhibit B, pp. 4-15)
3. On the April 30, 2015, MA application, it was marked that Petitioner was a citizen or had eligible immigration status. (Department Exhibit B, p. 6)
4. Petitioner was approved for Emergency Services Only (ESO) MA coverage for at least some of the relevant time period. (Department Exhibit B, pp. 19-20)
5. Petitioner has been a permanent resident since October 30, 2009. (Eligibility Specialist Testimony)
6. On September 17, 2015, Petitioner filed a hearing request contesting the Department's determination. (Department Exhibit B, p. 2)
7. The Department subsequently approved full MA coverage for September 2014 and ongoing based on when Petitioner had been a permanent resident for five years and became eligible for full MA coverage. (Department Exhibit B, pp. 16-18; Eligibility Specialist Testimony)
8. On February 4, 2016, a Benefit Notice was issued to Petitioner stating she was eligible for full Medicaid coverage for September 2014 and ongoing. (Department Exhibit B, pp. 21-22)

### **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 denial of full MA coverage. (Department Exhibit B, p. 2)

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 (January 1, 2014), p. 2.

For MA, an individual under specific immigration statuses is limited to emergency services for the first five years in the U.S. (BEM 225, pp. 7-8)

When an applicant for Medicaid claims to be a U.S. citizen or to have qualified immigrant status, and all other eligibility factors are met, certify benefits. Once the case has been open and coverage entered in Bridges, verification of citizenship must be completed. Attempt to verify citizenship through a data match such as the Social Security Administration or a DCH vital records match. MAGI- related applicants will have citizenship and identity verified if the application comes to DHS via the Federally Facilitated Marketplace (FFM) or MAGI rules engine. If there is a discrepancy with the information or it is not available then contact with the beneficiary is necessary; see BEM 221 and 225. BAM 130, (October 1, 2014), p. 4.

On November 10, 2014, a Redetermination form was issued to Petitioner regarding MA and food benefits for the family. (Exhibit A, pp. 4-9) Additionally, on April 30, 2015, Petitioner applied for MA. (Department Exhibit B, pp. 4-15) Petitioner was approved for Emergency Services Only (ESO) MA coverage for at least some of the relevant time period. (Department Exhibit B, pp. 19-20)

However, on the April 30, 2015, MA application, it was marked that Petitioner was a citizen or had eligible immigration status. (Department Exhibit B, p. 6) Accordingly, the BAM 130 policy allowing for full MA coverage to be certified pending verification should have been applied when Petitioner's application was initially processed.

Further, the Department noted that Petitioner has been a permanent resident since October 30, 2009. (Eligibility Specialist Testimony) The Department subsequently approved full MA coverage for September 2014 and ongoing based on when Petitioner had been a permanent resident for five years and became eligible for full MA coverage. (Department Exhibit B, pp. 16-18; Eligibility Specialist Testimony) On February 4, 2016, a Benefit Notice was issued to Petitioner stating she was eligible for full Medicaid coverage for September 2014 and ongoing. (Department Exhibit B, pp. 21-22)

However, the print out of the Medicaid eligibility history shows that Petitioner remains approved for only ESO MA coverage for April 2014 through August 2014. (Exhibit B, p. 18) The Department has not provided sufficient evidence to review that period of MA eligibility. For example, there was no copy of the MA application for that time period showing whether Petitioner attested to being a citizen or had eligible immigration status. If Petitioner had attested to having eligible citizenship status for the MA application going back to April 2014, the BAM 130 policy regarding allowing for full MA coverage to

be certified pending verification should have been considered when that application was initially processed.

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 has not provided sufficient documentation regarding their determination about MA eligibility based on Petitioner's immigration status for the entire relevant time period.

### **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, to include notifying Petitioner in writing of the Department's new MA eligibility determination.

CL/mc



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**Colleen Lack**  
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]

[REDACTED]

**Petitioner**

[REDACTED]

**Authorized Hearing Rep.**

[REDACTED]