



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 25, 2016
MAHS Docket No.: 15-025830
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

Pursuant to a [REDACTED], 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 [REDACTED] and [REDACTED]. 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, [REDACTED] from Detroit, Michigan. The Petitioner was represented by himself. The Department was represented by [REDACTED], Eligibility Specialist. [REDACTED] served as a [REDACTED] translator during the hearing.

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 [REDACTED], Petitioner applied for MA.
2. On the date of MA application, Petitioner was not a United States (U.S.) citizen.

3. On the application, the Petitioner advised the Department that the Social Security Administration (SSA) had made a decision that he was disabled. Exhibit 1, p. 8.
4. At the time of the application, the Petitioner was receiving Retirement, Survivors and Disability Insurance (RSDI).
5. The Department issued a Health Care Coverage Determination Notice on [REDACTED], finding that the Petitioner was eligible for Emergency Services Only (ESO).
6. The Application also indicated that the Petitioner's citizenship was verified on the [REDACTED] application. Exhibit 1, p. 9.
7. The Department issued a Benefit Notice dated [REDACTED], which advised the Petitioner that he was approved for full health care coverage effective [REDACTED] through [REDACTED]. Exhibit 4.
8. At the time of the hearing, the Petitioner was still receiving RSDI.
9. On [REDACTED], 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, the 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 (January 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 (5) 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.

In this case, Petitioner requested a hearing disputing the assignment of MA coverage to ESO **and denial of full MA coverage**. The Petitioner was given full coverage MA for the period [REDACTED], through [REDACTED], based upon his status as a Permanent Resident since he entered the U.S. in [REDACTED]. The Department also provided an MA eligibility summary showing that Petitioner received full-coverage MA from [REDACTED], through [REDACTED]. Exhibit 3.

The Notice of Hearing sent in this case indicated that the **sole** purpose for this telephone hearing was to determine whether the Department's denial of full MA coverage between [REDACTED] and [REDACTED] was proper and whether the denial followed and was pursuant to federal and state law and policies. In this case, because the Department properly corrected its initial determination that the Petitioner was eligible for only ESO, and that the full coverage was extended to the Petitioner for the period in question [REDACTED] through [REDACTED], the Department met its burden of proof and has provided the Petitioner the correct coverage for full coverage MA.

The fact that Petitioner's MA case closed on and after [REDACTED], due to the Petitioner not meeting program income requirements is not an issue which can be resolved by this hearing request. Therefore, the Petitioner must reapply for MA and may be eligible for benefits based upon the fact that he is disabled, subject to the Petitioner meeting other eligibility criteria. Unfortunately, the Department corrected the situation only in [REDACTED]; and therefore, the Petitioner is advised that he must ask his medical providers to resubmit the medical bills which are unpaid and outstanding to Medicaid.

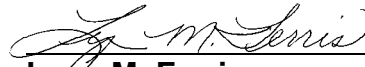
At the hearing, the undersigned incorrectly stated on the record that the Department was required to reopen the Petitioner's MA after closure in [REDACTED] due to excess income. Upon further review of the record, **it is determined that the undersigned cannot address this issue as the hearing is limited to determining whether or not the Department assigned the correct coverage during the period set forth in the notice of hearing [REDACTED] through [REDACTED], which it has satisfied by its most recent notice issued [REDACTED].** Exhibit 4.

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** 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 **AFFIRMED**.

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]