



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: June 9, 2016  
MAHS Docket No.: 15-026038  
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 May 18, 2016, from Lansing, Michigan. The Petitioner was represented by [REDACTED], friend and Authorized Hearing Representative (AHR). [REDACTED], the Petitioner, was also present. The Department was represented by [REDACTED], Eligibility Specialist. [REDACTED], also provided interpretation services during the hearing.

During the hearing proceedings, the Department's Hearing Summary Packet was admitted as Exhibit A, pp. 1-37

### **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 or about April 1, 2013, Petitioner applied for MA. (Exhibit A, p. 1)

2. Petitioner is a permanent resident alien with a U.S. date of entry of May 29, 2012. (Exhibit A, pp. 36-37)
3. Petitioner application was initially approved for Emergency Services Only (ESO) MA coverage, which was effective from April 2013 through July 2014. (Exhibit A, pp. 17-19, and 20-24)
4. During an August 2014 annual Redetermination, Petitioner's MA coverage changed to full MA coverage in error, which was effective from August 2014 through October 2015. (Exhibit A, pp. 1, 16-17, and 25-28)
5. On August 20, 2015, a Health Care Coverage Determination Notice was issued to Petitioner stating the MA case would close effective September 1, 2015, based on an alleged failure to return the annual Redetermination form. (Exhibit A, pp. 11-12, and 29-31)
6. Petitioner submitted documentation to the Department showing that the August 2015, Redetermination was timely submitted, the Redetermination was processed after the case closure, and Petitioner's MA coverage returned to ESO MA effective November 1, 2015. (Exhibit A, pp. 1, 2-10, 15-16, and 32-35)
7. On September 10, 2015, Petitioner filed a hearing request contesting the Department's determination. (Exhibit A, pp. 2-12)

### **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. (Exhibit A, pp. 2-12)

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, including permanent resident, is limited to emergency services for the first five years in the U.S. (BEM 225, pp. 7-8)

On or about April 1, 2013, Petitioner applied for MA. (Exhibit A, p. 1) Petitioner is a permanent resident alien with a U.S. date of entry of May 29, 2012. (Exhibit A, pp. 36-37) Accordingly, Petitioner's MA application was initially approved for Emergency Services Only (ESO) MA coverage because Petitioner had not been in the U.S. for five years. The initial ESO coverage started April 2013 and continued through July 2014. (Exhibit A, pp. 1, 17-19, and 20-24)

During an August 2014 annual Redetermination, Petitioner's MA coverage changed to full MA coverage in error, which was effective from August 2014 through October 2015. (Exhibit A, pp. 1, 16-17, and 25-28) Again, Petitioner is a permanent resident with a U.S. date of entry of May 29, 2012. (Exhibit A, pp. 36-37) Therefore, Petitioner had not been in the U.S. for five years and should have been limited to ESO MA coverage.

On August 20, 2015, a Health Care Coverage Determination Notice was issued to Petitioner stating the MA case would close effective September 1, 2015, based on an alleged failure to return the annual Redetermination form. (Exhibit A, pp. 11-12, and 29-31) The evidence indicates this closure was also in error. However, when Petitioner submitted documentation to the Department showing that the August 2015, Redetermination was timely submitted, the Redetermination was processed after the case closure, and Petitioner's MA coverage returned to ESO MA effective November 1, 2015. (Exhibit A, pp. 1, 2-10, 15-16, and 32-35) The Department properly returned Petitioner's MA coverage to ESO MA because she still had not been in the U.S. for five years based upon her U.S. date of entry of May 29, 2012. (Exhibit A, pp. 36-37).

Petitioner's AHR described Petitioner's situation regarding owing a huge amount for medical bills but having low income and no other resources to pay them. Petitioner's AHR stated that Petitioner needs a favor or kindness. However, this Administrative Law Judge has no authority to change or make any exceptions to the Department's policy. Petitioner was not eligible for full MA coverage because she has been in the U.S. for less than five years.

Petitioner's testimony indicated she is concerned about the ESO coverage being canceled because she is unable to pay the medical bills. The Eligibility Specialist confirmed that Petitioner's ability to pay the medical bills is not a factor in determining her eligibility for Medicaid.

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 initially properly determined Petitioner's immigration status or citizenship when determining MA eligibility, and while an error was made during the August 2014 Redetermination, the Department properly returned Petitioner's MA coverage to ESO when the August 2015 Redetermination was processed because Petitioner is a permanent resident who has been in the U.S. for less than 5 years.

**DECISION AND ORDER**

Accordingly, the Department's determination about MA eligibility based on immigration status is **AFFIRMED**.

CL/mc



---

**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]

**Authorized Hearing Rep.**

[REDACTED]

**Petitioner**

[REDACTED]