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GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

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[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: June 10, 2016
MAHS Docket Nos.: 15-026794;
15-026762
Agency No.: [REDACTED]
Petitioners: [REDACTED]
[REDACTED]

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 on June 2, 2016, from Detroit, Michigan. A consolidated hearing was held for Petitioner [REDACTED] (MU), registration no. 15-026794, and his minor child, Petitioner [REDACTED] (FU), registration no. 15-026762. Petitioners were represented by [REDACTED], the wife and mother of the respective Petitioners. The Department was represented by [REDACTED], Eligibility Specialist. [REDACTED] served as translator [REDACTED] 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. In May 2012, an application for MA benefits was submitted on Petitioner's FU's behalf.
2. On November 29, 2014, Petitioner MU applied for medical insurance on the marketplace for himself and FU and his application was transferred to the Department (Exhibit A, pp. 5-20; Exhibit B, pp. 5-20).
3. On October 21, 2014, the Department sent Petitioner a Health Care Coverage Determination Notice approving Petitioner MU for MA for January 2014 and approving Petitioner FU for ESO MA coverage for January 2014 (Exhibit A, pp. 27-31; Exhibit B, pp. 27-31)
4. On the date of MA applications, neither Petitioner was a United States citizen.
5. On an unknown date, the Department sent Petitioners notices advising them they may have been denied full MA coverage based on immigration status between January 2014 and May 2015.
6. On August 31, 2015, Petitioners requested hearings (Exhibit A, p. 2; Exhibit B, p. 2).

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.

Petitioners requested a hearing disputing the Department granting them 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 (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.

Petitioner MU

MU's permanent resident card showed that he had been a U.S. resident since 2008 (Exhibit A, p. 26). Because he had permanent resident status for more than 5 years, he was eligible for full-coverage MA.

The Department presented a Medicaid eligibility chart showing that Petitioner had full-coverage MA from January 2014 ongoing. Although there are a few months (specifically December 2014 through February 2015) that have two entries, one showing full-coverage, the other showing no coverage, the Department testified that, with respect to his immigration status, Petitioner MU was eligible for full-coverage MA during those months he was eligible for MA. The summary shows ongoing MA coverage under the Healthy Michigan Plan beginning March 2015. (Exhibit A, pp. 21-25.) Therefore, the Department established that it properly determined that, for those periods Petitioner MU was eligible for MA, he was eligible for, and provided with, full-coverage MA. As such, the Department acted in accordance with Department policy when it processed Petitioner MU's MA case.

Petitioner FU

The Department testified that Petitioner FU was initially approved for ESO but after it received his hearing request, it activated full-coverage MA for FU for October 2014 and from March 2015 to January 2016 while it reviewed his immigration status. The Medicaid eligibility summary provided by the Department showed that full-coverage MA was activated for October 2014 and from March 1, 2015 through May 31, 2016 (Exhibit B, pp. 21-25). His MA coverage was converted back to ESO effective June 1, 2016.

The Department explained that, based on his immigration status, Petitioner FU was eligible for ESO coverage only. The evidence presented by the Department, namely the copy of FU's permanent residency card, established that he had been a U.S. resident since January 22, 2012 with a category FX3 (Exhibit B, p. 4). There was no eligible RE, AS, or AM (refugee, asylum or Amerasian) status identified on the permanent resident card. Further, FU's mother confirmed that neither she nor Petitioner MU, the child's father, had served in the U.S. military. Because Petitioner had not been a resident alien for 5 years, his parents had not served in the U.S. military, and he did not have an eligible class code on his permanent resident card, he was not eligible for full-coverage MA.

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 properly determined Petitioners' 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**.



ACE/tlf

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

[REDACTED]

[REDACTED]