



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: July 25, 2016
MAHS Docket No.: 15-026980
Agency No.: [REDACTED]
Petitioner: [REDACTED]

[REDACTED]

MAHS Docket No.: 15-026619
Agency No.: [REDACTED]
Petitioner: [REDACTED]

[REDACTED]

MAHS Docket No.: 15-026620
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 herself. The Petitioner's minor son's [REDACTED] and [REDACTED] were represented by the Petitioner who is their mother. The Department was represented by [REDACTED], Eligibility Specialist. [REDACTED], served as an Arabic translator during the hearing.

ISSUE

Did the Department properly determine Petitioner [REDACTED], [REDACTED] and [REDACTED] 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. This hearing was conducted and involved three separate cases, the Petitioner's case, MAHS Docket No. [REDACTED], and two minor children of Petitioner, [REDACTED] Docket No. 1 [REDACTED] and [REDACTED], Docket No. [REDACTED]. One hearing record was made for all three cases as they arose out of the same application for Medical Assistance (MA). The exhibit numbers referenced in the Findings of Fact are specific to that individual's case file.
2. On [REDACTED], Petitioner's husband, [REDACTED], applied for MA on behalf of himself, the Petitioner and her two minor sons, [REDACTED] and [REDACTED] for MA benefits. Exhibit A.
3. On the date of MA application for Petitioner [REDACTED], she was not a United States (U.S.) citizen. The Petitioner's husband is a Permanent Resident with an entry date of [REDACTED]. Exhibit C.
4. On the date of the application, [REDACTED], for Petitioner [REDACTED], he had a valid U.S. Passport issued [REDACTED]. Exhibit A.
5. On the date of the application, [REDACTED], for Petitioner [REDACTED] he had a valid U.S. Passport issued [REDACTED]. Exhibit A.
6. The Department issued a Benefit Notice on [REDACTED], advising Petitioner [REDACTED] that she was approved for full health care coverage beginning [REDACTED] through [REDACTED]. Exhibit B.
7. The Eligibility Summary for Petitioner [REDACTED] indicated that she had Healthy Michigan Plan ongoing through [REDACTED]. Exhibit D.
8. The Eligibility Summary for [REDACTED] indicated that he had ongoing full coverage MA. Exhibit B. A Health Care Coverage Determination Notice dated [REDACTED], found Petitioner eligible for full coverage MA ongoing. Exhibit C.
9. The Eligibility Summary for [REDACTED] indicated that he had ongoing coverage for full MA. Exhibit A. A Health Care Coverage Determination Notice dated [REDACTED], found Petitioner eligible for full coverage MA ongoing. Exhibit B.
10. On [REDACTED] the Department issued a notice to the Petitioner [REDACTED] indicating she might have been denied full MA coverage based on immigration status between [REDACTED] and [REDACTED].
11. On [REDACTED], Petitioner requested a hearing on behalf of herself and her two minor sons.

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 **MA activation** of full MA coverage. The Petitioner and her two sons requested a hearing date relative to the application for MA filed by her husband on [REDACTED], on behalf of herself and her two minor children, [REDACTED] and [REDACTED]. Thereafter, the Department based upon the immigration status of the Petitioner, which was as a permanent resident, activated full coverage MA by a Benefit Notice dated [REDACTED], for the period [REDACTED], through [REDACTED]. Exhibit B. The Department sent a Benefit Notice on [REDACTED] Exhibit B.

At the hearing, based upon the evidence presented, it was determined that the Petitioner had been a permanent resident since [REDACTED], and thus, on the date of her application, [REDACTED], she had completed five years of residency in the U.S. and thus, was eligible for full coverage MA at the time of the application. Subsequently, the Petitioner's case closed due to excess income; however, that issue is not the subject matter of this hearing.

The Petitioner's two sons have valid U.S. Passports and both Passports were issued as of [REDACTED]. Exhibit A. Thus, at the time of the application filed in [REDACTED], both of Petitioner's children were eligible for full coverage MA based upon being U.S. citizens. The Department issued a Health Care Coverage Determination Notice dated [REDACTED], advising the Petitioner's husband, who was the applicant, that his sons, [REDACTED] and [REDACTED] are **eligible ongoing for full coverage Medical Assistance.** Exhibit C. The eligibility for both minor children was confirmed by eligibility summaries provided by the Department at the hearing as evidence of their eligibility. Exhibit B ([REDACTED] and Exhibit A ([REDACTED]

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 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

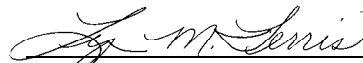
ESO MA coverage. BEM 225, p. 9. The alien status of each non-citizen must be verified to be eligible for full MA coverage. BEM 225, p. 2.

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 and her two son'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]