



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 18, 2016  
MAHS Docket No.: 15-026621  
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 three-way telephone hearing was held on [REDACTED], from Detroit, Michigan. The Petitioner was represented by [REDACTED], the Petitioner's Authorized Hearing Representative (AHR). The Petitioner did not appear or participate. The Department was represented by [REDACTED], Assistance Payments Worker. [REDACTED] served as 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 benefits. The application did not indicate her permanent resident status, alien registration number or date of entry. The Petitioner also reapplied for MA on [REDACTED], and indicated on the application that she had immigration status as a permanent resident. Exhibit 1.
2. On the date of MA application, Petitioner was not a United States (U.S.) citizen.

3. The Petitioner is a Permanent Resident Alien with an entry date into the U.S. of [REDACTED]. The Department, based upon the Petitioner's date of entry, found that the Petitioner would be eligible based upon her immigration status for full coverage MA as of [REDACTED].
4. On [REDACTED], the Department issued a Health Care Coverage Determination Notice advising that the Petitioner was eligible ongoing effective [REDACTED], for **full-coverage MA**. Exhibit 2.
5. On a date unknown, the Department issued a notice to the Petitioner indicating he/she might have been denied full MA coverage based on immigration status between [REDACTED] and [REDACTED].
6. 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, Petitioner requested a hearing disputing whether the Department correctly assessed her eligibility for full coverage MA based upon her two MA applications of [REDACTED] and [REDACTED]. Exhibit 1.

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 Department testified that after the Petitioner filed a second occasion in [REDACTED], it reassessed her MA eligibility. In addition, the evidence presented by the Department indicated that the Petitioner was a permanent resident of the U.S. on [REDACTED], and thus, was eligible for full MA in [REDACTED]. Based upon the Petitioner's statement in her MA application in [REDACTED], that she was not a U.S. citizen but had eligible immigration status and that she was a permanent resident, it reassessed her eligibility and activated full coverage MA. On [REDACTED], the Department sent the Petitioner a Health Care Coverage Determination Notice advising the Petitioner that she was eligible for full coverage MA [REDACTED], ongoing. Exhibit 2. The Department decided administratively to make the change to full coverage MA due to the statements made by Petitioner in her application, not upon the immigration status.

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]

**Authorized Hearing Rep.**

[REDACTED]

**Petitioner**

[REDACTED]