



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: [REDACTED]
MAHS Docket No.: 15-026782
Agency No.: [REDACTED]
Petitioners: [REDACTED]
[REDACTED]

ADMINISTRATIVE LAW JUDGE: Eric J. Feldman

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]. 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 four-way telephone hearing was held on June 23, 2016, from Detroit, Michigan. The Petitioners, [REDACTED] (Child A), and [REDACTED] (Child B) were represented by [REDACTED] (Petitioner/father to Child A and Child B). The Department was represented by [REDACTED], Eligibility Specialist. [REDACTED] served as translator during the hearing.

ISSUE

Did the Department properly determine Petitioners' 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. Petitioners are United States citizens.

2. Petitioner [REDACTED] last received full-coverage MA in [REDACTED] and did not apply for any subsequent MA assistance for himself. See Exhibit A, pp. 1 and 6.
3. Child A and Child B received Emergency Services Only (ESO) for some benefits periods (beginning August 2014), but the Department converted their coverage to full MA coverage and the children received full-coverage MA from [REDACTED].
4. On [REDACTED], the Petitioners requested a hearing. See Exhibit A, p. 2.
5. On [REDACTED], the Michigan Administrative Hearing System (MAHS) sent Petitioner a Notice of Hearing informing him of a hearing scheduled for [REDACTED].
6. On [REDACTED] the Administrative Law Judge (ALJ) sent Petitioner an Adjournment Order for Interpreter Services.
7. On [REDACTED], MAHS sent Petitioner a Notice of Hearing informing him of a hearing scheduled for [REDACTED].

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.

Preliminary matter

On [REDACTED], Petitioner, [REDACTED] (hereinafter referred to as Petitioner A), requested a hearing disputing his MA eligibility for himself and his two children, Child A (DOB: [REDACTED]), and Child B ([REDACTED]). See Exhibit A, p. 2. The undersigned addresses all three Petitioners' (Petitioner A, Child A, and Child B) MA eligibility below:

ESO coverage

In this case, the Petitioners requested a hearing disputing the conversion to ESO MA and/or activation/denial of full MA coverage. See Exhibit A, p. 2. It should also be noted that the undersigned's jurisdiction is only to review whether the Department denied the Petitioners' full MA coverage between [REDACTED], in accordance with federal and state laws and policies.

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 ([REDACTED]; [REDACTED]), 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.

In regard to Petitioner A: he did not receive any MA coverage during the time period in review, which was from [REDACTED]. In fact, the Department presented Petitioner A's Medicaid Eligibility, which showed that the last time he received MA coverage was in January 2012. See Exhibit A, pp. 5-6. The Department further testified that Petitioner A did not apply for any MA benefits for himself during the time period in review. It should be noted that Petitioner A is a U.S. citizen.

In regards to Child A and Child B: the Department testified that Child A and Child B, who are U.S. citizens, received ESO coverage for some benefits periods (beginning [REDACTED]), but the Department converted their coverage to full MA coverage. The Department testified that the children received full-coverage MA for the period in review-[REDACTED]. The Department further testified that the children's MA benefits ended in [REDACTED] due to excess assets.

Based on the foregoing information and evidence, along with both parties testimony, the Department properly determined Petitioners' immigration status when determining MA eligibility.

As to Petitioner A, he did not receive any MA coverage during the period in review [REDACTED]. Petitioner A previously received MA coverage in [REDACTED], but this falls outside the undersigned's jurisdiction. Furthermore, the Department credibly testified that Petitioner A did not apply for MA benefits during the time period in review, which meant there was no eligibility determination of Petitioner A's immigration status or citizenship. As such, the Department properly did not determine Petitioner A's

immigration status when determining his MA eligibility during the period in review, which was [REDACTED].

As to Child A and Child B, the Department initially provided Child A and Child B with only ESO coverage. However, the Department credibly testified that it updated all of Child A's and Child B's benefit periods that previously had ESO coverage to full MA coverage. The Department credibly testified that the children received full-coverage MA for the period in review, which was from [REDACTED]. As such, the undersigned finds the Department properly determined Child A's and Child B's immigration status when determining their MA eligibility for [REDACTED].


Finally, Child A's and Child B's MA benefits closed effective [REDACTED]; however, this falls outside the undersigned's jurisdiction. As stated previously, the undersigned's jurisdiction is between [REDACTED]. Thus, the undersigned lacks the jurisdiction to address the MA closure.

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 Petitioners' immigration status or citizenship when determining MA eligibility.

DECISION AND ORDER

Accordingly, the Department's determination about their (Petitioner A, Child A, and Child B) MA eligibility based on immigration status is **AFFIRMED**.

EF/hw


Eric J. Feldman

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 [REDACTED]; 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]

Petitioners

[REDACTED]