



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 20, 2016
MAHS Docket No.: 15-026973
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]. 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 her father, [REDACTED]. [REDACTED] also served as an [REDACTED] translator during the hearing. The Department was represented by [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly determine Petitioner's immigration status or citizenship when determining Medical Assistance (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's father applied for MA benefits as Petitioner was a minor child.
2. On the date of MA application or redetermination, Petitioner was not a United States (U.S.) citizen. The application for MA advised the Department that Petitioner was a U.S. citizen. Exhibit A.

3. The Petitioner is a permanent resident with an entry date of [REDACTED]. Exhibit C.
4. Beginning [REDACTED], Petitioner's **MA application** was **approved** for full coverage MA.
5. On a date unknown, the Department issued a notice to the Petitioner indicating she might have been denied full MA coverage based on immigration status between [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 the **denial** of full MA coverage. The Petitioner's application filed on her behalf noted that she was a U.S. citizen, which was not correct. The Petitioner entered the U.S. as a permanent resident on [REDACTED] and had not, at the time of the application, been in the U.S. for five years or more. Nonetheless the Department activated full coverage MA due to the application statement of full U.S. citizenship. Exhibit C.

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.

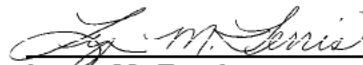
The Department testified that after Petitioner filed the hearing request, it reassessed MA eligibility. Based on Petitioner's statements in the MA application that she was a U.S. citizen, it issued a Benefit Notice and activated full coverage MA for Petitioner from [REDACTED]; [REDACTED]; and [REDACTED]. Exhibit B. The Department notice was different than the Eligibility Summary, which indicated that the Petitioner had full coverage MA beginning [REDACTED] ongoing until [REDACTED]. Exhibit D. The Benefit Notice only corrected the Emergency Services Only (ESO) MA months; as for unexplained reasons, the Department's Eligibility Summary confirmed that she was given full coverage MA throughout the period. The Department provided a Medicaid Eligibility Summary showing that Petitioner received full coverage MA for the period. Exhibit D. After [REDACTED], the Petitioner was shown as eligible for ESO MA services. The Department effectuated full coverage as an administrative decision based upon the application.

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]

Petitioner

[REDACTED]