



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 19, 2016
MAHS Docket No.: 15-026974
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 4-way telephone hearing was held on [REDACTED], from Detroit, Michigan. The Petitioner was represented by Petitioner. The Department was represented by [REDACTED], Eligibility Specialist. [REDACTED] served as [REDACTED] translator during the hearing.

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 applied for MA benefits. At the time of the application, the Petitioner indicated that he had eligible immigration status. Exhibit 1.
2. On the date of MA application or redetermination, Petitioner was not a United States (U.S.) citizen.

3. The Department, issued a Benefit Notice on [REDACTED], advising the Petitioner that he was eligible for **full-coverage MA beginning [REDACTED], through [REDACTED]. Exhibit 2.**
4. On [REDACTED], the Department sent Petitioner a Health Care Coverage Determination Notice closing the Petitioner's MA because it found he was not under 21, pregnant or a caretaker of a minor child in the home. He was not over 65, blind or disabled. This notice conflicted with the Department's testimony that the Petitioner's case closed due to failure to complete the redetermination. Exhibits 3 and 4.
5. At the time of his application, the Petitioner was an eligible refugee.
6. 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].
7. 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 Emergency Services Only (ESO) **MA**, which was issued by the Department. After requesting a hearing, the Department reviewed the Petitioner's case and activated full MA coverage. The Department sent the Petitioner a Benefit Notice on [REDACTED], advising the Petitioner that it had determined that Petitioner was eligible for full coverage MA beginning [REDACTED], the Petitioner's MA application month through [REDACTED].

Thereafter, the Department testified that it closed the Petitioner's case because the Petitioner did not complete a redetermination. The closure of the Petitioner's MA case due to this reason is not an issue to be addressed at this hearing. The Petitioner's case did close but the Health Care Coverage Determination Notice listed a different reason than failure to complete the redetermination; however, this was a harmless error.

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 his hearing request, it reassessed his MA eligibility. Based on Petitioner's statements in his MA application that he was not a U.S. citizen but had eligible immigration status as a refugee, and that he was a permanent resident, it issued a Benefit Notice and activated full-coverage MA for Petitioner from [REDACTED], through [REDACTED]. Exhibits 2 and 4. The Department also provided a Medicaid Eligibility Summary showing that Petitioner received full-coverage MA for the period. Exhibit 4.

Department policy provides that for FIP, SDA and MA eligibility, a permanent resident card with RE status qualifies the Petitioner for full coverage MA and is not limited to ESO. BEM 225, p. 32.

The Petitioner is eligible to reapply for medical assistance at any time.

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]