



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: September 2, 2016
MAHS Docket Nos.: 15-022596;
15-022517
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 [REDACTED] [REDACTED]. The notice included information about how to request a hearing. Petitioners 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 via 4-way telephone conference on August 29, 2016, from Detroit, Michigan. Petitioner, registration no. 15-022596, appeared and represented himself and his wife [REDACTED], registration no. 15-022517. The Department was represented by [REDACTED], Eligibility Specialist. [REDACTED] served as translator [REDACTED] 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. In 2015, Petitioners applied for MA (Exhibit A, pp. 4-12).
2. On the date of MA application, Petitioners were not United States citizens.

3. On February 9, 2015, the Department notified Petitioners that they were approved for Emergency Services Only (ESO) MA coverage effective [REDACTED] ongoing (Exhibit A, pp. 19-21).
4. On an unknown date, the Department notified Petitioners that they may have been denied full MA coverage based on immigration status between [REDACTED] [REDACTED].
5. On October 31, 2015, the Department received Petitioners' requests for hearings (Exhibit A, p. 2; Exhibit B, p. 2).

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.

Petitioners requested hearings to dispute the Department granting them ESO MA rather than full-coverage MA. 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.

A copy of Petitioners' permanent residency cards showed that they both had class codes of RE (Exhibit A, p. 18; Exhibit B, p. 18). Therefore, having satisfied all other MA

eligibility criteria, they were eligible for full-coverage MA under Department policy based on their immigration status.

At the hearing, the Department acknowledged that it had erroneously approved Petitioners for ESO coverage only for the period from February 1, 2015 ongoing. Prior to the hearing, the Department testified that it corrected its error by activating full-coverage MA for Petitioners from [REDACTED] ongoing. The December 3, 2015 Health Care Coverage Determination Notice sent to Petitioners notified them of the correction in coverage (Exhibit A, pp. 22-24). The Medicaid eligibility chart showing the type of MA coverage received by Petitioners on a monthly basis showed full coverage MA for both Petitioners based on refugee status from [REDACTED] ongoing (Exhibit A, pp. 13-17; Exhibit B, pp. 13-17). The evidence presented established that the Department resolved any mistake in Petitioners' MA cases due to their immigration status.

Because the Department established that it activated full-coverage MA for Petitioners for all periods during which they had MA coverage, 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 properly determined 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**.

ACE/tlf



Alice C. Elkin
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]
[REDACTED]
[REDACTED]
[REDACTED]

Petitioners

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Via Electronic Mail:

[REDACTED]