



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: September 2, 2016
MAHS Docket Nos.: 15-026435;
15-026434; 15-026404
Agency No.: [REDACTED]
Petitioners: [REDACTED]

[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 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 telephone hearing was held via 3-way telephone conference on August 29, 2016, from Detroit, Michigan. Petitioner [REDACTED], register no. 15-026435, appeared and served as authorized hearing representative (AHR) for himself; his wife [REDACTED], register no. 15-026434; and his minor child [REDACTED], register no. 15-026404. The Department was represented by [REDACTED], Eligibility Specialist.

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 October 1, 2013, Petitioners filed an application seeking MA coverage (Exhibit A, pp. 4-23).
2. On the date of MA application, Petitioners were not United States citizens.
3. On October 24, 2013, the Department notified Petitioners that they were approved for Emergency Services Only (ESO) MA coverage effective October 1, 2013 ongoing (Exhibit A, pp. 31-31)
4. On an unknown date, the Department notified Petitioners that they may have been denied full MA coverage based on immigration status between January 2014 and May 2015.
5. On November 2, 2015, the Department received Petitioners' requests for hearings (Exhibit A, p. 2; Exhibit B, p. 2; Exhibit C, 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).

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.

The Department testified that it had approved the Petitioners for ESO coverage only for the period from October 1, 2013 through September 30, 2014. In reviewing Petitioners' October 1, 2013 application, the Department confirmed that Petitioners had not attested to having eligible alien status (Exhibit A, pp. 6-7). Because Petitioners had not identified

themselves as being documented aliens, the Department acted in accordance with policy when it activated ESO MA coverage for them from October 1, 2013 to September 30, 2014.

The evidence at the hearing showed that Petitioners' MA case closed effective September 30, 2014, and they reapplied and were approved for full-coverage MA from October 1, 2014, which coverage continued through May 2016. Because Petitioners' hearing request concerned only whether they were improperly denied full-coverage MA, their eligibility for full coverage based on their immigration status is beyond the scope of the hearing issue of whether they were improperly denied full-coverage MA. Therefore, it is not addressed in this Hearing Decision.

At the hearing, Petitioners' AHR expressed concerns about notices he had received that he and his wife's MA cases were subject to a monthly deductible and the absence of any MA approval concerning one of his children. Because these issues were also beyond the scope of the hearing issue presented, the AHR was advised to request a hearing specifically concerning these issues if he continued to dispute these Department actions.

Based on the evidence presented at the time of the October 2013 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 properly determined Petitioners' 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]

Petitioners

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

Via Electronic Mail:

[REDACTED]