



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 9, 2016  
MAHS Docket No.: 15-026595  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton**

**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 on [REDACTED], from Detroit, Michigan. The Petitioner was represented by [REDACTED]. The Department was represented by [REDACTED], Eligibility Specialist. [REDACTED] served as the Spanish translator 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. On [REDACTED], Petitioner applied for MA benefits.
2. On the date of MA application, Petitioner was not a United States citizen.

3. The Department failed to provide Petitioner with notice of its decision regarding her application for MA benefits.
4. Despite the lack of notice, the Department approved Petitioner for full MA coverage from [REDACTED], ongoing.
5. 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.

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; July 2014; October 2014; and October 2015), 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 this case, on [REDACTED], Petitioner applied for MA benefits. On the date of MA application, Petitioner was not a United States citizen. Further, Petitioner did not attest to having eligible immigration status. Under Department policy, when an applicant for Medicaid claims to be a U.S. citizen or to have qualified immigrant status, and all other eligibility factors are met, the Department is required to certify benefits. See BAM 130 (January 2014; April 2014; July 2014; October 2014; and July 2015).

Additionally, a negative action, as defined by the Department, is a MDHHS action to deny an application or to reduce, suspend or terminate a benefit. This includes an increase in a post-eligibility patient-pay amount for MA or an increase in the client pay for a special living arrangement See BAM 220 (January 2014), p.1. A notice of case action must specify the following:

- The action(s) being taken by the department.
- The reason(s) for the action.
- The specific manual item which cites the legal base for an action or the regulation or law itself.
- An explanation of the right to request a hearing.
- The conditions under which benefits are continued if a hearing is requested. See BAM 220, pg. 2.

The change in programs caused Petitioner's full MA benefits to end and as of [REDACTED] [REDACTED] the Department testified that Petitioner was eligible for MA subject to a [REDACTED] per month deductible. The Department acknowledged that it did not send Petitioner notice of the change. Department policy requires that a DHS-114, Deductible Notice, is generated when MA is approved with a deductible. BAM 220(April 2016), p.21.

The Department confirmed that it did not provide Petitioner with timely notice following her application for MA benefits. Further, the Department did not send Petitioner any request for verification relating to her citizenship. Petitioner testified that she arrived in the United States in 2002. The Department was unable to state why it approved Petitioner for full MA benefits in February 2015 but failed to provide coverage as of the date of her 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 not act in accordance with Department policy when it failed to properly determine Petitioner's eligibility for MA programs based upon her [REDACTED] application.

### **DECISION AND ORDER**

Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Re-register and reprocess Petitioner's [REDACTED] application for MA benefits;
2. Issue supplements to Claimant for MA benefits she was eligible to receive but did not receive arising from the [REDACTED] application; and

3. Notify Claimant in writing.

JM/hw



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**Jacquelyn A. McClinton**  
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]