



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]

Date Mailed: October 7, 2016  
MAHS Docket No.: 16-011896

[REDACTED]  
[REDACTED]

**ADMINISTRATIVE LAW JUDGE: Vicki Armstrong**

### **HEARING DECISION**

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 - 273.18; 42 CFR 431.200 - 431.250; 45 CFR 99.1 - 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on October 6, 2016, from Lansing, Michigan. Petitioner personally appeared and testified.

The Department of Health and Human Services (Department) was represented by Hearing Coordinator [REDACTED] [REDACTED] testified on behalf of the Department. The Department submitted 11 exhibits which were admitted into evidence. The record was closed at the conclusion of the hearing.

### **ISSUE**

Did the Department properly determine Petitioner's immigration status or citizenship when determining Medicaid 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 August 5, 2016, Petitioner applied for Medicaid. (Hearing Summary).
2. On the date of the Medicaid application, Petitioner was not a United States citizen. (Dept. Exh. 1, Petitioner's testimony).

3. On August 5, 2016, the Department issued Petitioner a Health Care Coverage Determination Notice informing Petitioner that he, his wife and three of his children were eligible for Emergency Services Only Medicaid based on their immigration status, but his youngest son was approved for full coverage Medicaid because he was a U.S. citizen. [Dept. Exh. 9-11].
4. On August 11, 2016, Petitioner requested a hearing. [Dept. Exh. 2-3].

### **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), 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 (formerly known as the Department of Human Services) 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 approval of Emergency Services Only Medicaid coverage, instead of full Medicaid coverage for all his children.

To be eligible for full Medicaid coverage, a person must be a U.S. citizen or an alien admitted to the U.S. under a specific immigration status. BEM 225 (10/2015), p. 1. An acceptable status for an alien admitted into the U.S. is one with an immigration status of Permanent resident alien with a class code on the I-551 other than RE, AM or AS. BEM 225, p 7.

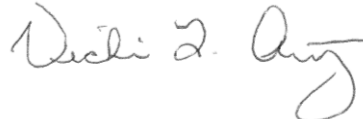
The eligibility of an alien admitted into the U.S. on or after August 22, 1996, with an immigration status of Permanent resident alien with a class code on the I-551 other than RE, AM or AS is limited to **Emergency Services Only for the first five years** in the U.S., unless the alien is a qualified military alien or the spouse or dependent child of a qualified military alien. BEM 225, pp 7-8 (emphasis added).

Petitioner testified that he and his family are from [REDACTED] At the time of application, Petitioner's status was a permanent resident alien who had lived in the U.S. since October 10, 2014. Therefore, Petitioner and his family are limited to Emergency Services Only because he and his family have not resided in the U.S. for 5 years.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, 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**.



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**Vicki Armstrong**  
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

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