



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: January 10, 2017
MAHS Docket No.: 16-018277
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on [REDACTED], from Detroit, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Family Independence Specialist.

ISSUE

Did the Department properly deny the Petitioner's application for Medical Assistance (MA) for failure to verify proof of citizenship?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Petitioner applied for the Food Assistance Program (FAP) and Medical Assistance (MA) on [REDACTED], for herself, her spouse [REDACTED], her three minor children and her mother-in-law [REDACTED]. Exhibit A.
2. The Petitioner advised the Department in the application that she and her husband were both naturalized U.S. citizens. Exhibit A, pp. 4-5. As regards [REDACTED], the application listed her a non-U.S. citizen with immigration status. Exhibit A, p. 9.
3. The Permanent Resident Card was provided for [REDACTED] with an entry date of [REDACTED]. Exhibit E.

4. The Department issued a Verification Checklist (VCL) on [REDACTED], with a due date of [REDACTED], for the Petitioner's spouse [REDACTED] to provide a passport or proof of U.S. citizenship. Exhibit B.
5. The Department issued a Health Care Coverage Determination Notice (HCCDN) on [REDACTED], finding the Petitioner and her husband and children eligible for full coverage MA. Exhibit C.
6. On [REDACTED], the Department issued a HCCDN finding [REDACTED] not eligible and Petitioner not eligible for HMP based on the countable income exceeding the limit. The Department conceded the Notice was incorrect. Exhibit D.
7. The Petitioner was sent a VCL dated [REDACTED], with a due date of [REDACTED], requesting a valid driver's license, a U.S. Passport or naturalization papers, recent business receipts, alien status documentation for [REDACTED] and a bank statement for [REDACTED] Exhibit E.
8. The Department's electronic data files contained a copy of Petitioner's [REDACTED] State driver's license and [REDACTED] Permanent Resident Card, the Profit and Loss tax return filing for [REDACTED] and a bank statement for [REDACTED] Exhibits E, F, G and H.
9. At the hearing, the Petitioner indicated that she did not request a hearing for FAP and as the Department has approved her FAP and based upon the fact that Petitioner's hearing request did not request a hearing regarding her FAP no FAP issue was reviewed at the hearing..
10. The Petitioner requested a timely hearing on [REDACTED], protesting the Department's actions with respect to her MA.

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, the Department denied the Petitioner's MA application by a HCCDN dated [REDACTED], which found that the Petitioner and her spouse [REDACTED] were ineligible for HMP due to excess income. Exhibit D. The Department conceded that the Notice was incorrect. Thereafter, the Department requested by VCL dated [REDACTED], with a due date of [REDACTED], that Petitioner verify her citizenship, provide a driver's license, passport or naturalization paper, self-employment receipts and checking account information for [REDACTED] and Alien Status for [REDACTED]. Exhibit E. The Department did not have any proof of citizenship for the Petitioner or her spouse [REDACTED] in the electronic case file. Petitioner testified at the hearing that she provided proof of citizenship on [REDACTED], when she provided the other verification documents requested Exhibit E. The proofs of citizenship were not found in the Department's electronic case file.

Initially, the Department's denial of the Petitioner's MA application with respect to herself and husband [REDACTED] was in error as it was based upon excess income, not citizenship status. The evidence presented at the hearing demonstrated that [REDACTED] had until [REDACTED], to provide proof of citizenship based upon the verification request of the Department dated [REDACTED]. Exhibits D and E. Likewise, the Petitioner also had 90 days to provide proof of citizenship. Department policy provides the following with respect to Medicaid applicants and proof of citizenship, and the Department's responsibilities:

MA

U.S. citizenship must be verified. BEM 225, (October 1, 2016), p. 19.

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, certify benefits. Once the case has been open and coverage entered in Bridges, verification of citizenship must be completed.

Attempt to verify citizenship through a data match such as the Social Security Administration or a MDHHS vital records match. BAM 130 (October 1, 2016), pp. 4-5.

Allow the beneficiary 90 days to provide the required verifications. If no documentation is provided at the end of the 90 days, the beneficiary should be disenrolled from Medicaid within 30 days.

Beneficiaries must be notified of the pending closure and the reason for the closure. If documentation is received prior to the closure date the coverage must continue. BAM 130, p. 5

In this case, the Department did not follow the Department policy provided above in BAM 130, and thus, should not have closed the Petitioner's case or that of her spouse

██████████ as the time for completing proof of citizenship has not expired. Therefore, to the extent the Department denied the application for Medicaid for the Petitioner and her spouse, the Department must re-register the application and process the application for eligibility with respect to citizenship, or reinstate the Medicaid originally authorized on ██████████ 2016, HCCDN finding Petitioner and her spouse eligible for full coverage MA. Exhibit C. The fact that the Petitioner did not bring her proof of citizenship to the hearing and the fact there was no record of it in the Department's electronic case file, requires that the Petitioner verify her U.S. citizenship and that of her spouse in order to be eligible for MA.

As regards ██████████, the Petitioner's mother-in-law, the Department correctly determined that she was eligible for Emergency Services Only (ESO) MA based upon her immigration status and being in the U.S. less than five years. Department policy found in BEM 225 which provides:

Determine the alien status of each non-citizen requesting benefits at application, member addition, redetermination and when a change is reported. BEM 225 (October 1, 2016), p. 1.

Citizenship/alien status is not an eligibility factor for emergency services only (ESO) MA. However, the person must meet all other eligibility factors, including residency; see BEM 220.

To be eligible for full MA coverage a person must be a U.S. citizen or an alien admitted to the U.S. under a specific immigration status.

U.S. citizenship must be verified with an acceptable document to continue to receive Medicaid; see BAM 130.

A person claiming U.S. citizenship is not eligible for ESO coverage.

The alien status of each non-citizen must be verified to be eligible for full MA coverage; see CITIZENSHIP/ALIEN STATUS in this item. BEM 225, p. 2.

- Alien admitted into the U.S. with one of the following immigration statuses:

Permanent resident alien with a class code on the I-551 other than RE, AM or AS.

An alien limited to emergency services only (ESO) coverage during the five-year bar means the following aliens who entered the U.S. on or after 8/22/96.

A permanent resident alien with class codes other than RE, AM or AS, and an alien paroled under INA section 212(d)(5) for at least one year.

The individual is limited to emergency services only (ESO) Medicaid coverage the first five years in the U.S. BEM 225, pp. 7-8; 30-31.

DECISION AND ORDER

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 denied/closed the Petitioner's and her spouse [REDACTED] Medicaid for failure to verify U.S. citizenship.

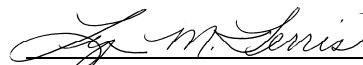
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it found that [REDACTED] was eligible for ESO MA.

Accordingly, the Department's decision is **AFFIRMED with respect to [REDACTED]** and **REVERSED with respect to the denial/closure of Medicaid for Petitioner and her spouse [REDACTED]**

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. The Department shall re-register or reinstate the Petitioner's [REDACTED], MA application or Medicaid eligibility and re-process the application with respect to citizenship and determine eligibility.
2. The Department shall provide Petitioner written notice of its determination regarding Petitioner's medical assistance eligibility.

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]

Via email

[REDACTED]