



RICK SNYDER  
GOVERNOR

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

SHELLY EDGERTON  
DIRECTOR

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██████████

Date Mailed: June 28, 2017  
MAHS Docket No.: 17-006098  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: Eric J. Feldman**

### **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 ██████████ from Detroit, Michigan. Petitioner was present for the hearing and was represented by his Authorized Hearing Representative (AHR)/son, ██████████. The Department of Health and Human Services (Department) was represented by ██████████ Hearing Representative. The AHR, ██████████, also served as translator during the hearing.

### **ISSUE**

Did the Department properly determine Petitioner and his spouse's immigration status or citizenship when determining Medicaid (MA) and/or Modified Adjusted Gross Income (MAGI) related 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. Petitioner, ██████████ ██████████, and his spouse, ██████████ ██████████, were ongoing recipients of Healthy Michigan Plan (HMP) coverage, which was under the MAGI-related Medicaid coverage.
2. Petitioner and his spouse were permanent residents of the United States (U.S.) since ██████████. [Exhibit A, pp. 10-13.]

3. On or about [REDACTED], the Department conducted a review of Petitioner and his spouse's eligibility for MAGI-related categories. [Exhibit A, p. 9.]
4. On [REDACTED], the Department received verification of Petitioner and his spouse's immigration documents and determined they were only eligible for Emergency Services Only (ESO) coverage. [Exhibit A, pp. 1 and 9-13.]
5. On [REDACTED], the Department sent Petitioner a Health Care Coverage Determination notifying him that he and his spouse were approved for ESO MA coverage for [REDACTED], ongoing. [Exhibit A, pp. 5-6.]
6. On [REDACTED], Petitioner's AHR filed a hearing request. [Exhibit A, pp. 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, the AHR requested a hearing disputing Petitioner and his spouse's MA coverage. [Exhibit A, pp. 2-3.] Petitioner and his spouse disputed the Department's decision to convert their HMP coverage to ESO MA coverage effective [REDACTED]. The AHR argued that Petitioner and his spouse need the full-coverage in order for them to receive their medical treatments. [Exhibit A, p. 3.]

The Healthy Michigan Plan (HMP) is based on MAGI methodology. BEM 137 (October 2016), p. 1. The HMP provides health care coverage for a category of eligibility authorized under the Patient Protection and Affordable Care Act and Michigan Public Act 107 of 2013 effective April 1, 2014. BEM 137, p. 1.

The Healthy Michigan Plan (HMP) provides health care coverage for individuals who:

- Are 19-64 years of age
- Do not qualify for or are not enrolled in Medicare
- Do not qualify for or are not enrolled in other Medicaid programs
- Are not pregnant at the time of application

- Meet Michigan residency requirements
- *Meet Medicaid citizenship requirements*
- Have income at or below 133 percent Federal Poverty Level (FPL) Cost Sharing.

BEM 137, p. 1 (emphasis added).

For MAGI-related Medicaid coverage, an individual must be a U.S. citizen or have a qualified alien status. MAGI Related Eligibility Manual, *Michigan Department of Community Health* (DCH), May 2014, p. 7. Available at [http://michigan.gov/documents/mdch/MAGI\\_Manual\\_457706\\_7.pdf](http://michigan.gov/documents/mdch/MAGI_Manual_457706_7.pdf) and see also BEM 225 (October 2016), pp. 1-37. Citizenship/alien status is not an eligibility factor for ESO Medicaid. MAGI Manual, p. 7. However, an individual must meet all other eligibility factors, including residency. MAGI Manual, p. 7. The data match with the Social Security Administration (SSA) is sufficient to verify citizenship and should be completed prior to requesting verification from an individual. MAGI Manual, p. 7. If a match is not available proceed to the following forms of verification. MAGI Manual, p. 7. The MAGI Manual lists the acceptable forms of citizenship as follows: (i) primary evidence; (ii) secondary evidence; (iii) third level evidence; and (iv) fourth level evidence. MAGI Manual, pp. 7-10.

As stated previously, to be eligible for full coverage MA and/or for MAGI-related Medicaid coverage, an individual must be a U.S. citizen or have a qualified alien status. MAGI Manual, p. 7. 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 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. MAGI Manual, pp. 10-12 and BEM 225, pp. 7-8.

In this case, Petitioner and his spouse are permanent residents. The evidence record did contain their permanent resident cards, which showed that they were residents since [REDACTED], and an IR5 category code. [Exhibit A, pp. 10-13.] Moreover, the AHR testified that Petitioner and his spouse did not enter the U.S. based on asylum or refugee status nor was anyone a qualified military alien.

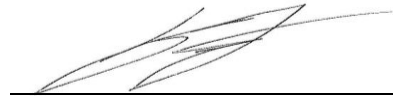
Based on the foregoing information and evidence, along with both parties' testimony, the Department properly determined that Petitioner and his spouse were not eligible for full-coverage MA and/or HMP effective [REDACTED]. The AHR's main dispute was that Petitioner and his spouse were in need of MA, and the ESO coverage was inadequate to cover their medical treatments. However, based on Petitioner's immigration status, they were only limited to ESO coverage for the first five years in the U.S. See MAGI Manual, pp. 7-14 and BEM 225, pp. 7-8. Petitioner and his spouse were not permanent resident aliens for five or more years; they did not enter the U.S. based on asylum or refugee status; they did not have an eligible class code; and there was not a qualified military alien. As such, the Department properly determined that Petitioner and his spouse were not eligible for full-coverage MA and/or HMP coverage

and instead, they were only eligible for ESO MA coverage effective [REDACTED]. See MAGI Manual, pp. 7-14 and BEM 225, pp. 7-8.

**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 (i) the Department did properly determine Petitioner and his spouse's immigration status or citizenship when determining their MA eligibility effective [REDACTED], ongoing; (ii) the Department properly determined that Petitioner and his spouse were not eligible for full-coverage MA and/or HMP coverage effective [REDACTED], ongoing; and (iii) the Department properly determined that they were only eligible for ESO MA coverage effective [REDACTED], ongoing.

Accordingly, the Department's MA and/or HMP decision is **AFFIRMED**.



EJF/jaf

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**Eric J. Feldman**  
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

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED]

**Authorized Hearing Rep.**

[REDACTED]  
[REDACTED]  
[REDACTED]

**DHHS**

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