

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

IN THE MATTER OF:

██████████
██████████
██████████ MI ██████████

MAHS Reg. No.: 15-020107; 15-020106
Issue No.: ESO
Agency Case No.: ██████████
Hearing Date: January 13, 2016
County: DHHS SPECIAL
PROCESSING OFFICE

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 three-way telephone hearing was held on January 13, 2016, from Detroit, Michigan. The Petitioners, ██████████ and ██████████ were represented by their son/Authorized Hearing Representative (AHR), ██████████. The Department was represented by Kori Harris, Assistant Payment Worker.

ISSUE

Did the Department properly determine the Petitioners 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. The Petitioners are ongoing Medical Assistance (MA) recipients.
2. On ██████████ 2014, Petitioner ██████████ (hereinafter referred to as "Petitioner's spouse") applied for MA benefits for himself and his spouse (Petitioner ██████████ and hereinafter referred to as "Petitioner"). See Petitioner's Exhibit A, pp. 4-11 and Petitioner spouse's Exhibit A, pp. 4-11.

3. In the application, it was indicated that the Petitioners were not U.S. citizens. See Petitioner's Exhibit A, pp. 6-7 and Petitioner spouse's Exhibit A, pp. 6-7.
4. On March 2, 2015, Petitioner's spouse submitted a redetermination, neither were United States citizens on the date of the redetermination. See Petitioner's Exhibit A, pp. 12-17 and Petitioner spouse's Exhibit A, pp. 12-17.
5. On March 11, 2015, the Department sent Petitioner's spouse a Health Care Coverage Determination Notice notifying them that they were approved for Emergency Services Only (ESO) MA coverage effective April 1, 2015, ongoing. See Petitioner's Exhibit A, pp. 21-23 and Petitioner spouse's Exhibit A, pp. 23-25.
6. Petitioner's Medicaid Eligibility indicated the following coverage: (i) full MA coverage from April 2014 to February 2015; and (ii) ESO coverage from March 2015, ongoing. See Petitioner's Exhibit A, pp. 18-19.
7. Petitioner spouse's Medicaid Eligibility indicated the following coverage: (i) full MA coverage from April 2014 to February 2015; (ii) ESO coverage for March 2015 to June 2015; (iii) full MA coverage for July 2015; and (iv) ESO coverage for August 2015, ongoing. Petitioner spouse's Exhibit A, pp. 18-21.
8. On [REDACTED], the AHR requested a hearing. See Petitioner's Exhibit A, p. 2 and Petitioner spouse's Exhibit A, 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).

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.

Preliminary matter

On December 30, 2015, the Michigan Administrative Hearing System (MAHS) sent two Notices of Hearing to Petitioner and Petitioner's spouse notifying them of a hearing scheduled on January 13, 2016.

On January 13, 2016, the AHR was present for the hearing to represent the Petitioners.

The undersigned consolidated both hearings scheduled into one administrative hearing. As a result, the undersigned issued this one hearing decision to address both Registration Numbers 15-020107 – [REDACTED] and 15-020106 - [REDACTED]

Additionally, the Exhibits admitted into the record will be referred to as: Petitioner's Exhibit A or Petitioner spouse's Exhibit A.

ESO coverage

In this case, the AHR requested a hearing disputing the conversion to ESO MA and/or activation/denial of full MA coverage.

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, the AHR did not dispute the following: (i) the Petitioners country of birth was Bangladesh; (ii) no one was a qualified military alien; and (iii) they did not enter the U.S. based on asylum or refugee status. Moreover, the evidence record did present the Petitioner's permanent resident card, which showed U.S. residency since October 5, 2011, and a F41 category. See Petitioner's Exhibit A, p. 20. The evidence record also presented Petitioner's spouse's permanent resident card, which showed U.S. residency since September 17, 2012, and a F42 category. See Petitioner spouse's Exhibit A, p. 22.

On March 11, 2015, the Department sent Petitioner's spouse a Health Care Coverage Determination Notice notifying them that they were approved for ESO coverage effective April 1, 2015, ongoing. See Petitioner's Exhibit A, pp. 21-23 and Petitioner spouse's Exhibit A, pp. 23-25.

However, Petitioner's Medicaid Eligibility indicated the following coverage: (i) full MA coverage from April 2014 to February 2015; and (ii) ESO coverage from March 2015, ongoing. See Petitioner's Exhibit A, pp. 18-19. Petitioner's ESO coverage began on March 2015, rather than April 2015 as indicated in the Health Care Coverage Determination Notice.

Petitioner spouse's Medicaid Eligibility indicated the following coverage: (i) full MA coverage from April 2014 to February 2015; (ii) ESO coverage for March 2015 to June 2015; (iii) full MA coverage for July 2015; and (iv) ESO coverage for August 2015, ongoing. Petitioner spouse's Exhibit A, pp. 18-21. Petitioner spouse's ESO coverage began on March 2015, rather than April 2015 as indicated in the Health Care Coverage Determination Notice. Moreover, Petitioner went to full MA coverage for July 2015 and then back to ESO coverage effective August 2015, ongoing.

Nevertheless, despite the differences as to when the Petitioners ESO coverages began, the issue before the undersigned is whether the Department properly determined both Petitioners immigration status and citizenship when determining MA eligibility.

Based on the foregoing information and evidence, along with both parties' testimony, the Department properly determined Petitioner's and Petitioner's spouse's immigration status when determining MA eligibility. At the time of the redetermination received on March 2, 2015, both Petitioner and Petitioner's spouse were not permanent resident aliens for five or more years, they did not have eligible class code, and they were not qualified military aliens. As such, the Department properly determined at the time that they were not eligible for full-coverage MA.

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 Petitioner's and Petitioner spouse's immigration status when determining MA eligibility.

DECISION AND ORDER

Accordingly, the Department's determination about MA eligibility based on immigration status is **AFFIRMED**.

E-Sign

Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed:

Date Mailed:

EF / hw

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

cc:



DHHS Special Processing Office
Eric Feldman
MAHS