

**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.: 15-021220
Issue No.: ESO
Agency Case No.: ██████████
Hearing Date: February 17, 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 February 17, 2016, from Detroit, Michigan. The Petitioner, ██████████ was represented by her spouse/Authorized Hearing Representative (AHR), ██████████. The Department was represented by Tim Emmerson, Eligibility Specialist.

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 ██████████ 2014, Petitioner applied for MA benefits. See Exhibit A, pp. 5-15.
2. On the date of MA application, Petitioner was not a United States citizen, but did indicate that she had eligible immigration status. See Exhibit A, p. 7.

3. On April 24, 2013, the Department sent Petitioner a Notice of Case Action notifying her that she is eligible for only Emergency Services Only (ESO) coverage from March 1, 2013, ongoing. See Exhibit A, pp. 21-22.
4. On [REDACTED], Petitioner's AHR requested a hearing. See Exhibit A, p. 2.
5. On November 4, 2015, the Department sent Petitioner a Benefit Notice notifying her that she was eligible for full coverage MA from January 2014 to October 2015. See Exhibit A, pp. 23-24.

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.

In this case, Petitioner's AHR requested a hearing disputing the MA benefits. See Exhibit A, p. 2. It should also be noted that the undersigned's jurisdiction is only to review whether the Department denied Petitioner's full MA coverage between January 2014 to May 2015, in accordance with federal and state laws and policies.

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] 2014, Petitioner applied for MA benefits. See Exhibit A, pp. 5-15. On the date of MA application, Petitioner was not a United States citizen, but did indicate in the application that she has eligible immigration status. See Exhibit A, p. 7. Furthermore, Petitioner initially received ESO coverage. However, the Department indicated that it updated all benefit periods that previously had ESO coverage to full MA coverage. See Exhibit A, p. 1 (Hearing Summary). According to the Department's testimony, it updated Petitioner's ESO coverage to full-coverage because she attested to having eligible immigration status on her application. See Exhibit A, p. 7; and see BAM 130 (January 2014; April 2014; July 2014; October 2014; and July 2015), p. 4 (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). In fact, the Department presented Petitioner's Medicaid Eligibility, which showed that she had full MA coverage from January 2014 to October 2015. See Exhibit A, pp. 16-18.

Additionally, the evidence record did not contain Petitioner's permanent resident card, but, Petitioner's AHR had the card present with him during the hearing. Petitioner's AHR testified that the card indicated that Petitioner was a resident since January 24, 2013, and an IR1 category. Moreover, Petitioner's AHR indicated that Petitioner 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 Petitioner's immigration status when determining MA eligibility. Yes, the Department initially provided Petitioner with only ESO coverage. However, the Department updated all of Petitioner's benefit periods that previously had ESO coverage to full MA coverage for January 2014 to October 2015 because she lawfully attested to being in the U.S. See Exhibit A, p. 7. Because Petitioner lawfully attested to being in the U.S., the undersigned finds that Department properly determined Petitioner's immigration status when determining her MA eligibility. See BAM 130, p. 4.

Additionally, as to Petitioner's MA coverage before January 2014 and after October 2015, Petitioner had only ESO coverage. See Exhibit A, pp. 16-20. In the present case, Petitioner was not permanent resident alien for five or more years, she did not enter the U.S. based on asylum or refugee status, she did not have an eligible class code, and there was not a qualified military alien. Based on this information, Petitioner would not be eligible for full-coverage MA. However, this decision is not addressing Petitioner's MA eligibility before January 2014 or after October 2015. As stated above, the undersigned's jurisdiction is only to review whether the Department denied Petitioner's full MA coverage from January 2014 to May 2015. In this case, the Department did not deny Petitioner's full MA coverage from January 2014 to May 2015 and instead, provided her with full MA coverage. See Exhibit A, pp. 30-34. As such,

the undersigned finds that Department properly determined Petitioner's immigration status when determining her MA eligibility during the time period in review.

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 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.**



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

Date Signed: **FEBRUARY 29, 2016**

Date Mailed: **FEBRUARY 29, 2016**

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