

**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.: 15-021994
Issue No.: ESO
Agency Case No.: ██████████
Hearing Date: January 27, 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 27, 2016, from Detroit, Michigan. The Petitioner, ██████████ (a minor child) was represented by his father, ██████████ his mother, ██████████ and the parent's friend/translator, ██████████. The Department was represented by Julie Stoll, 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, the father applied for MA benefits on behalf of the Petitioner. See Exhibit A, pp. 4-34.

2. In the application, the father indicated that Petitioner was not a United States citizen, he is a naturalized or derived citizen, and did not answer the question as to whether the Petitioner has eligible immigration status. See Exhibit A, p. 8.
3. On June 16, 2014, the Department sent Petitioner's father a Health Care Coverage Determination Notice notifying him that the Petitioner was eligible for Emergency Services Only (ESO) MA coverage effective May 1, 2014, ongoing. See Exhibit A, pp. 39-41.
4. Petitioner's Medicaid Eligibility indicated the following MA coverage: (i) ESO coverage from February 2014 to April 2014; (ii) full-coverage MA from May 2014 to July 2014; and (iii) ESO coverage from August 2014, ongoing. See Exhibit A, pp. 35-37 and pp. 42-43 (Benefit Notice dated October 28, 2015, notifying Petitioner that he was approved for full-coverage MA from May 2014 to July 2014).
5. Beginning August 1, 2014, ongoing, Petitioner's full-coverage MA case was converted to ESO MA coverage. See Exhibit A, pp. 35-37.
6. On [REDACTED] Petitioner requested a hearing. See 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.

In this case, Petitioner 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, the father applied for MA benefits on behalf of the Petitioner. See Exhibit A, pp. 4-34. In the application, the father indicated that Petitioner was not a United States citizen, he is a naturalized or derived citizen, and did not answer the question as to whether the Petitioner has eligible immigration status. See Exhibit A, p. 8.

On June 16, 2014, the Department sent Petitioner's father a Health Care Coverage Determination Notice notifying him that the Petitioner was eligible for ESO MA coverage effective May 1, 2014, ongoing. See Exhibit A, pp. 39-41. However, the Department updated Petitioner's ESO coverage to full-coverage for May 2014 to July 2014. See Exhibit A, pp. 37 and 42-43. The evidence appears to indicate that Petitioner received full coverage from May 2014 to July 2014 because the father indicated in the application that the Petitioner is a naturalized or derived citizen. See Exhibit A, p. 8 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). It should be noted that Petitioner received ESO coverage for February 2014 to April 2014. See Exhibit A, p. 37.

But then, beginning August 1, 2014, ongoing, Petitioner's full-coverage MA case was converted to ESO MA coverage. See Exhibit A, pp. 35-37. The Department testified that Petitioner was not eligible for ongoing full-coverage because documented alien admission status on file proves he has not been a permanent resident for 5 or more years. See Exhibit A, p. 1 (Hearing Summary).

In response, the father and interpreter/friend argued that the Petitioner is in need of full MA coverage due to the Petitioner's medical conditions and that the ESO coverage is inadequate.

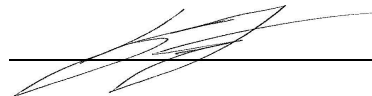
Additionally, the evidence record did not contain Petitioner's permanent resident card. However, the father and interpreter/friend indicated that the Petitioner has yet to obtain the permanent resident card, but provided the following information as to the Petitioner's immigration status: (i) Petitioner's date of entry was April 28, 2014; (ii) his country of birth was Lebanon; (iii) he did not enter the U.S. based on asylum or refugee status; (iv) no one was a qualified military alien; and (v) Petitioner is not a naturalized citizen (even though it was indicated in the application (Exhibit A, p. 8)).

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 provided Petitioner with full MA coverage from May 2014 to July 2014 based on Petitioner attesting to having eligible immigration status in the application. See Exhibit A, p. 8 and BAM 130, p. 4. However, the issue of concern in this case is the Department converting Petitioner's full-coverage MA case to ESO MA coverage effective August 1, 2014, ongoing. See Exhibit A, pp. 35-37. In the present case, Petitioner was not a permanent resident alien for five or more years, he did not enter the U.S. based on asylum or refugee status, he did not have an eligible class code, there was not a qualified military alien, and he is not a naturalized citizen. As such, the Department properly determined at the time that Petitioner was 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 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: **02/02/2016**

Date Mailed: **02/02/2016**

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: [REDACTED] [REDACTED]
DHHS Special Processing Office
Eric Feldman
MAHS