

**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.: 15-021995
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 four-way telephone hearing was held on January 27, 2016, from Detroit, Michigan. The Petitioner was represented by the Authorized Hearing Representative (AHR)/daughter, ██████████ the AHR's husband, ██████████ and ██████████ Petitioner. The Department was represented by Julie Stoll, Eligibility Specialist. Rissat Zaman served as translator during the hearing.

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. 5-29.
2. On the date of MA application, Petitioner was not a United States citizen, but did indicate in the application that she had eligible immigration status. See Exhibit A, p. 7.

3. Petitioner's Medicaid Eligibility indicated that she received full-coverage MA from December 2014 to December 2015. See Exhibit A, pp. 30-34.
4. On January 16, 2015, the Department sent Petitioner a Health Care Coverage Determination Notice (determination notice) notifying her that she was eligible for full-coverage MA from December 1, 2014, ongoing. See Exhibit A, pp. 36-39.
5. On [REDACTED], Petitioner requested a hearing. See Exhibit A, p. 2.
6. On October 23, 2015, the Department sent Petitioner a determination notice notifying her that she was eligible for full coverage MA from December 2014 to November 2015. See Exhibit A, pp. 40-42.

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 matters

First, during the hearing, Petitioner gave permission that her daughter, [REDACTED] could represent her as the AHR.

Second, Petitioner's AHR indicated that she never received the hearing packet. However, the AHR acknowledged that the hearing could still proceed even though she did not receive the hearing packet. See BAM 600 (April 2015 and October 2015), pp. 22-23.

ESO coverage

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, Petitioner applied for MA benefits. See Exhibit A, pp. 5-29. On the date of MA application, Petitioner was not a United States citizen, but did indicate in the application that she had eligible immigration status. See Exhibit A, p. 7. Furthermore, it appears initially that Petitioner received Emergency Services Only (ESO) coverage. However, the Department testified that the issue prompting the hearing has been resolved as the Department 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 opened and coverage entered in Bridges, verification of citizenship must be completed). In fact, the Department presented Petitioner's Medicaid Eligibility document, which showed that she has received full MA coverage from December 2014 to December 2015. See Exhibit A, pp. 30-34.

In response, the AHR argued that the Petitioner would need full-coverage MA. Thus, it is unclear if the Petitioner now has been converted back to ESO coverage.

Additionally, the evidence record did not contain Petitioner's permanent resident card. However, the AHR had Petitioner's card present with her during the hearing and indicated that the card showed that Petitioner was a resident since February 2, 2013, and a 1R5 or IR5 category (undersigned had difficulty understanding if the category code began with a "1" or "I"). Finally, the 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.

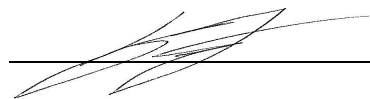
First, the evidence appears to indicate that Petitioner received full coverage from December 2014 to December 2015 because she attested to having lawful presence at the time of application dated [REDACTED] 2014. See Exhibit A, p. 7 and see BAM 130, p. 4. Nonetheless, the Department provided Petitioner with full-coverage MA during the time period in review. See Exhibit A, pp. 30-34 (Medicaid Eligibility). As such, the Department properly determined Petitioner's immigration status or citizenship when determining MA eligibility.

Second, as to Petitioner's future MA coverage, she might only be eligible for ESO coverage. 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 future MA eligibility. As stated above, the undersigned's jurisdiction is only to review whether the Department denied Petitioner's full MA coverage between January 2014 to May 2015. In this case, the Department did not deny Petitioner's full MA coverage between January 2014 to May 2015 and instead, provided her with full MA coverage. See Exhibit A, pp. 30-34.

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

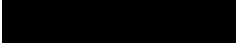
Date Signed: **1/27/2016**

Date Mailed: **1/27/2016**

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