



RICK SNYDER  
GOVERNOR

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

MIKE ZIMMER  
DIRECTOR

[REDACTED]  
MI [REDACTED]

Date Mailed: March 22, 2016  
MAHS Docket No.: 15-024164  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**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 March 17, 2016, from Detroit, Michigan. The Petitioner was represented by her husband, [REDACTED]. The Department was represented by Angela Scott, Eligibility Specialist. [REDACTED] 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 [REDACTED] 2014, Petitioner applied for MA benefits via the Federally Facilitated Marketplace. See Exhibit A, pp. 4-12.

2. On the date of MA application, Petitioner was not a United States citizen. See Exhibit A, p. 16.
3. On May 14, 2014, the Department sent Petitioner a Notice of Case Action notifying her that she was eligible for MA coverage effective May 1, 2014, ongoing. See Exhibit A, pp. 17-19. However, Petitioner's Medicaid Eligibility showed that she only received Emergency Services Only (ESO) MA coverage effective May 1, 2014, ongoing. See Exhibit A, pp. 13-15.
4. 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 activation of her ESO coverage. 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, the evidence record contained Petitioner's permanent resident card, which was received less than a week after the application and showed that she was a resident since April 4, 2014, and indicated a CR1 category. See Exhibit A, p. 16. Petitioner's husband indicated that no one was a qualified military alien, and she did not enter the U.S. based on asylum or refugee status.

Based on the foregoing information and evidence, along with both parties testimony, the Department properly determined Petitioner's immigration status when determining MA eligibility. At the time of the application, Petitioner was not a 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. As such, the Department properly determined at the time that she 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 properly determined Petitioner's immigration status when determining MA eligibility.

### **DECISION AND ORDER**

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

EF/hw



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**Eric 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

**DHHS**

2651 Coolidge Rd, Suite 100  
East Lansing, MI 48823

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED] MI [REDACTED]