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GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: August 19, 2016
MAHS Docket No.: 15-026059
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Eric J. 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 July 21, 2016, from Detroit, Michigan. The Petitioner was represented by the Authorized Hearing Representative (AHR), [REDACTED]. The Department was represented by Monika Trimmer, 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 [REDACTED] 2014, Petitioner applied for MA benefits. See Exhibit A, pp. 5-11.
2. 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.

3. On April 28, 2014, the Department sent the AHR a Health Care Coverage Determination Notice notifying him that the Petitioner is only eligible for Emergency Services Only (ESO) coverage from May 1, 2014, ongoing. See Exhibit A, pp. 17-19.
4. On an unspecified date, the Department updated the benefit periods that previously had ESO coverage and provided Petitioner with full-coverage MA from March 2014 to May 2015. See Exhibit A, pp. 1 and 12-14 (Medicaid Eligibility).
5. On [REDACTED] Petitioner's AHR requested a hearing. See Exhibit A, p. 2.
6. On March 22, 2016, the Department sent Petitioner a Benefit Notice notifying her that she was eligible for full coverage MA from May 2014 to November 2015. See Exhibit A, pp. 20-21.

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, the evidence record did contain Petitioner's permanent resident card, which showed that Petitioner was a resident since January 18, 2013, and an IR1 category. See Exhibit A, p. 15. Moreover, the AHR testified that his spouse (Petitioner) did not enter the U.S. based on asylum or refugee status and there was not a qualified military alien. Based on this information, it appears that Petitioner would not be eligible for full coverage MA benefits until on or about January 2018 because that is when she would have been a permanent resident alien for five or more years. BEM 225, pp. 7-8, 30; MREM, § 3.6. Nonetheless, the Department provided Petitioner with full coverage MA for the period in review (March 2014 to May 2015, no active coverage for January 2014 to February 2014).

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 Department indicated that Petitioner did not have active MA coverage for January 2014 to February 2014.

Second, for the period of [REDACTED] 2014 to [REDACTED] 2014, Petitioner's Medicaid Eligibility showed no coverage for these months. See Exhibit A, pp. 12-14. Petitioner's application was dated in [REDACTED] 2014, so the undersigned inquired as to why the Medicaid Eligibility indicated no coverage. In response, the Department asserted the following: (i) Petitioner was under a different case number for [REDACTED] 2014 to [REDACTED] 2014 (118532277); (ii) she did receive full coverage for these two months under the Group 2 Spend-Down (G2S) benefits (BEM 166 (July 2013), pp. 1-3); and (iii) the Medicaid Summary indicated not eligible, no coverage because she did not meet the spend-down for that month. Based on this information, the undersigned finds that the Department provided credible testimony that it provided Petitioner with full coverage MA for the months of [REDACTED] 2014 to [REDACTED] 2014, but just under a different case number.

Third, for the period of May 2014 to May 2015, 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 because she lawfully attested to being in the U.S. See Exhibit A, pp. 1, 7, and 12-14. 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 for May 2014 to May 2015. 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 summary, the evidence and testimony established that the Department provided Petitioner with full MA coverage for the period in review (March 2014 to May 2015, no active coverage for January 2014 to February 2014).

It should be noted that Petitioner received ESO coverage beginning December 1, 2015 (Exhibit A, p. 12); however, this occurred outside of the undersigned's jurisdiction.

Nonetheless, 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**.

EJF/tlf



Eric J. 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

SSPC
2651 Coolidge Rd, Suite 100
East Lansing, MI
48823

Petitioner

[REDACTED], MI

Authorized Hearing Rep.

[REDACTED] MI

Via Electronic Mail:

MAHS