



RICK SNYDER
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: May 31, 2016
MAHS Docket No.: 15-026562; 15-026563;
15-026564; and 15-026561
Agency No.: [REDACTED]
Petitioners: [REDACTED]
[REDACTED] and [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 May 18, 2016, from Detroit, Michigan. The Petitioners ([REDACTED] – Petitioner A; [REDACTED] – Petitioner B; [REDACTED] – Petitioner C; and [REDACTED] – Petitioner D) were represented by [REDACTED] and [REDACTED] husband and wife. The Department was represented by Angela Scott, Eligibility Specialist. [REDACTED] served as translator during the hearing.

ISSUE

Did the Department properly determine Petitioners' 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 A applied for MA benefits on behalf of all the Petitioners, retro to February 2014. See Exhibits A, pp. 5-17.
2. On the date of MA application, the Petitioners were not United States citizens. See Exhibits A, pp. 7-10.
3. On May 13, 2014, the Department sent Petitioner A a Health Care Coverage Determination Notice (determination notice) notifying him that all the Petitioners were eligible for Emergency Services Only (ESO) coverage effective May 1, 2014, ongoing. See Exhibits A, pp. 22-23.
4. The Petitioners Medicaid Eligibility indicated that they received ESO coverage from February 1, 2014, ongoing. See Exhibits A, pp. 17-22.
5. On [REDACTED], the Petitioners requested a hearing. See Exhibits 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.

Preliminary matter

On May 4, 2016, the Michigan Administrative Hearing System (MAHS) sent four Notice of Hearings notifying the Petitioners of a hearing scheduled on May 18, 2016.

On May 18, 2016, Petitioner A and B were present for the hearings to represent the Petitioners. It should also be noted that Petitioner A and B are the parents to their minor children Petitioners C and D.

The undersigned consolidated all four hearings scheduled into one administrative hearing. As a result, the undersigned issued this one hearing decision to address the following hearings:

- 1) Petitioner A – Reg. No. 15-026562;
- 2) Petitioner B – Reg. No. 15-026563;

- 3) Petitioner C – Reg. No. 15-026564; and
- 4) Petitioner D – Reg. No. 15-026561.

Additionally, the Exhibits were all admitted as Exhibit A for each Reg. No.

ESO coverage

In this case, the Petitioners requested a hearing disputing the approval of ESO MA coverage and/or denial of full MA coverage. It should also be noted that the undersigned's jurisdiction is only to review whether the Department denied the Petitioners' 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 the present case, the Department argued that all the Petitioners are only eligible for ESO MA coverage. Moreover, the Department presented all of the Petitioners Medicaid Eligibility documents, which shows the type of coverage they received for each benefit month. All of the Petitioner's received ESO MA coverage from February 1, 2014, ongoing. See Exhibits A, pp. 17-22.

In response, Petitioner B testified as to the following: (i) the Petitioners entered the U.S. on August 17, 2013 from Syria (ii) Petitioner A, her husband, went out of the country afterword's and entered back into the U.S. in November 2013; (iii) they entered the U.S. based on a visitor visa, but claimed they entered the U.S. as refugees; (iv) applied for refugee status and are currently awaiting a court date in 2019 to determine eligibility for refugee status; (v) no one was a qualified military alien; and (vi) they did not enter the U.S. based on asylum status.

Based on the foregoing information and evidence, along with both parties' testimony, the Department properly determined the Petitioners immigration status when determining MA eligibility. In the present case, the Petitioners were not permanent resident aliens for five or more years, they did not enter the U.S. based on asylum or refugee status, they did not have an eligible class code, and there was not a qualified

military alien. As such, the Department properly determined the Petitioners immigration status or citizenship when determining MA eligibility.

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 A, B, C, and D 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**.

EF/hw



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

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

Petitioner

[REDACTED]
MI