



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:  
MAHS Docket No.: 15-026615; 15-026653  
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 three-way telephone hearing was held on May 18, 2016, from Detroit, Michigan. The Petitioners ([REDACTED] – Petitioner A; and [REDACTED] – Petitioner B) were represented by [REDACTED] Petitioner A (mother); [REDACTED] Petitioner B (daughter), and [REDACTED] (son/brother to Petitioner A and B). The Department was represented by Angela Scott, Eligibility Specialist. [REDACTED] also 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's A and B applied for MA benefits. See Exhibits A, pp. 6-19.

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2. On the date of MA application, Petitioner's A and B were not United States citizens, but they did indicate in the application that they had eligible immigration status. See Exhibits A, pp. 8 and 10.
3. On September 6, 2014, the Department sent Petitioner A a Health Care Coverage Determination Notice notifying them that they were eligible for only Emergency Services Only (ESO) coverage from September 1, 2014, ongoing. See Exhibits A, pp. 23-24.
4. Petitioner A's Medicaid Eligibility indicated the following coverage: (i) no MA coverage for August 2014; and (ii) full MA coverage for September 2014, ongoing. See Exhibit A, pp. 20-22.
5. Petitioner B's Medicaid Eligibility indicated the following coverage: (i) no MA coverage for August 2014; (ii) full MA coverage for September 2014 to August 2015; and (iii) ESO coverage from September 2015, ongoing. See Exhibit A, pp. 20-22.
6. On [REDACTED] the Petitioners requested a hearing. See Exhibits A, p. 2.
7. On March 23, 2016, the Department sent Petitioner A and Petitioner B benefit notices notifying them that they were approved for full coverage MA from September 2014 to May 2015. See Exhibit A, pp. 25-26.

### **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 two 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.

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The undersigned consolidated both 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. 15-026615; and
- 2) Petitioner B – Reg. No. 15-026653.

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 conversion to ESO MA and/or activation/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 regards to Petitioner A, her Medicaid Eligibility indicated the following coverage: (i) no MA coverage for August 2014; and (ii) full MA coverage for September 2014, ongoing. See Exhibit A, pp. 20-22. First, the evidence is unclear why Petitioner A did not receive MA coverage for August 2014 as her application is dated [REDACTED] 2014. See Exhibit A, pp. 6-19. Second, Petitioner A initially received ESO coverage. However, the Department indicated that it updated all benefit periods that previously had ESO coverage to full MA coverage for the period of September 2014 to May 2015. See Exhibit A, p. 1 (Hearing Summary). According to the Department's testimony, it updated Petitioner A's ESO coverage to full-coverage because she attested to having eligible immigration status on her application. 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 opened and coverage entered in Bridges, verification of citizenship must be completed). Nonetheless, Petitioner A is eligible for full MA coverage as she has been a permanent

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resident alien who has resided in the U.S. for five or more years (permanent resident card indicated that she has been a resident since December 16, 2009, and a F41 category). See BEM 225, pp. 7-8, 30; MREM, § 3.6

In regard to Petitioner B, her Medicaid Eligibility indicated the following coverage: (i) no MA coverage for August 2014; (ii) full MA coverage for September 2014 to August 2015; and (iii) ESO coverage from September 2015, ongoing. See Exhibit A, pp. 20-22. First, the evidence is unclear why Petitioner B did not receive MA coverage for August 2014 as her application is dated [REDACTED] 2014. See Exhibit A, pp. 6-19. Second, Petitioner B initially received ESO coverage. However, the Department indicated that it updated all benefit periods that previously had ESO coverage to full MA coverage for the period of September 2014 to May 2015. See Exhibit A, p. 1 (Hearing Summary). According to the Department's testimony, it updated Petitioner B's ESO coverage to full-coverage because she attested to having eligible immigration status on her application. See Exhibit A, p. 10; and see BAM 130, p. 4. However, effective September 2015, ongoing, Petitioner only received ESO coverage because she has not been a permanent resident alien who has resided in the U.S. for five or more years (resident since March 5, 2014, with an F43 category).

Based on the foregoing information and evidence, along with both parties' testimony, the Department properly determined Petitioners' immigration status when determining MA eligibility, except for August 2014.

First, as to the period of August 2014, the evidence is unclear why the Department did not activate ESO and/or full MA coverage for August 2014 as the application is dated for [REDACTED] 2014. See Exhibits A, pp. 6-19. As such, the Department will redetermine Petitioner A's and Petitioner B's MA eligibility for August 2014. It should be noted that there was no indication that there should have been any activation for MA coverage from January 2014 to July 2014.

Second, as stated previously, the undersigned's jurisdiction is only to review whether the Department denied Petitioners' full MA coverage between January 2014 and May 2015. Yes, the Department initially provided Petitioner A and Petitioner B with only ESO coverage. However, the Department updated all of Petitioner A's and Petitioner B's benefit periods that previously had ESO coverage to full MA coverage for the period of September 2014 to May 2015 because they lawfully attested to being in the U.S. See Exhibits A, pp. 8 and 10. Because Petitioner's A and B lawfully attested (self-attestation) to being in the U.S., the undersigned finds that Department properly determined Petitioner's A and B immigration status when determining their MA eligibility for September 2014 to May 2015. See BAM 130, p. 4.

Third, Petitioner A indicated that she had an outstanding medical bill from on or around December 2015, but, this falls outside the undersigned's jurisdiction.

Fourth, as stated previously, Petitioner A has been receiving full MA coverage as she has been a permanent resident alien who has resided in the U.S. for five or more years.

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However, Petitioner B switched back to ESO coverage effective September 2015, ongoing. See Exhibit A, pp. 20-22. The time period that Petitioner B switched back to ESO coverage falls outside this undersigned's jurisdiction. But, it should be noted that Petitioner B might not be eligible for full-coverage MA because she has not been 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.

In summary, 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 (i) did not properly determine Petitioner A's and Petitioner B's immigration status or citizenship when determining MA eligibility for August 2014; and (ii) did properly determine Petitioner A's and Petitioner B's immigration status or citizenship when determining MA eligibility for September 2014 to May 2015.

### **DECISION AND ORDER**

Accordingly, the Department's determination about MA eligibility based on immigration status is **AFFIRMED IN PART** with respect to Petitioner A's and Petitioner B's eligibility from September 2014 to May 2015, and **REVERSED IN PART** with respect to Petitioners' eligibility from August 2014.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Redetermine Petitioner A's and Petitioner B's MA eligibility for August 2014 in accordance with Department policy.
2. Notify Petitioners in writing of the Department's new MA eligibility determination.

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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**

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

**Petitioner**

[REDACTED]  
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