

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF THE CLAIM OF:

[REDACTED]

Reg. No.: 2009-29181
Issue No.: 3025
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: July 28, 2010
Wayne County DHS (43)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and MCL 400.37 and Claimant's request for a hearing. After due notice, a telephone hearing was held on July 28, 2010. The claimant appeared and testified. [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS provided correct Family Independence Program (FIP) Refugee Assistance Program (RAP) benefits to Claimant?

FINDINGS OF FACT

The Administrative Law Judge, based upon competent, material, and substantial evidence and on the entire record as a whole, finds as material fact:

1. Claimant entered the United States of America on [REDACTED] as a refugee.
2. Claimant applied for RAP benefits on October 31, 2008.
3. Claimant received RAP benefits on December 8, 2008, retroactive to the pay period of November 15-30, 2008.
4. Claimant received RAP benefits through May 31, 2009.
5. Claimant requested a hearing on July 13, 2009.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* DHS administers the FIP program pursuant to MCL Section 400.10, *et seq.*, and Michigan Administrative Code Rules 400.3101-3131. DHS' current policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT). These manuals can be found online at www.michigan.gov/dhs-manuals.

In this case, the applicable policies and procedures to be used are the ones that were in effect on October 31, 2008. These policies and procedures are in the Program Eligibility Manual (PEM), which is an earlier manual. It is not available online at this time, and I will, therefore, quote the PEM sections in this Decision as I refer to them.

PEM Item 630, "Refugee Assistance Program," effective October 1, 2008, begins with a statement of DHS official policy:

The Refugee Assistance Program (RAP) is a federal program which helps refugees to become self-sufficient after their arrival in the U.S.

In addition to refugees, eligibility for RAP is available to certain other noncitizens with specified US Citizenship and Immigration Services (USCIS) status, identified in the section "REFUGEES" below. Treat these persons as refugees, for purposes of this item.

RAP Cash Assistance and/or RAP Medical Aid is available **only during the 8 months immediately following the refugee's date of entry into the U.S. or date asylum is granted.** PEM 630, p. 1. (Bold print added for emphasis.).

In addition, PEM 630 on page 10 states as follows:

"Eligibility Period – RAP Cash Assistance"

Eligibility for each refugee is limited to the 8 months immediately following the refugee's DATE OF ENTRY. **The month containing the refugee's date of entry is the first month. RAP closure or member removal must be effective at the end of the 8th month, regardless of the refugee's date of application.**

Do not issue benefits for the pay period of application.
PEM 630, p. 10. (Bold print added for emphasis.).

PEM 630 is fifteen pages long, and I have reviewed the entire section. I find that, according to page 10 of PEM 630, this means that the calendar month of October, 2008, is the first of the eight months, because Claimant entered the United States on October 17, 2008.

I further find there is nothing which alters or contradicts the established policy on pages 1 and 10. I, therefore, find and conclude that Claimant is eligible, at most, for RAP benefits only during the eight months beginning October 1, 2008, and ending May 31, 2009.

I further find that this policy does not mean that Claimant is eligible for benefits for every single day in the eight-month period unless he is eligible under all DHS policies and procedures as well. If another DHS policy limits Claimant's benefits, those policies must also be taken into consideration.

This question requires reference to the Program Administrative Manual (PAM) in effect on October 31, 2008, the date of Claimant's application for DHS benefits. As with PEM, PAM also is not available online. I will include the text of the PAM section I am referring to so that the parties may better understand the basis for my Decision.

PAM Section 115, "Application Processing," states that the starting date for Refugee Assistance shall be determined by calculations starting from the date of Claimant's application:

Initial Benefits – RAP Only

Begin assistance the pay period you determine eligibility,
but:

- **NOT earlier** than the pay period **after** the pay period that includes the application date, and
- **NOT later** than the pay period in which the application becomes 30 days old, and
- Provided the group meets all eligibility requirements in that pay period.

PAM 115, p. 17. (Bold print in original.).

I conclude and find that the application date of October 31, 2008, is within the pay period of October 16-31, 2008, and the next pay period is November 1-15, 2008.

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Claimant should, therefore, receive benefits in the pay period of November 1-15, 2008, but, he did not.

I refer here to PAM Item 105, "Rights and Responsibilities," effective July 1, 2008. This section states in the opening section that DHS Policy is:

The local office must do **all** of the following:

- Determine eligibility.
- Calculate the level of benefits.
- Protect client rights.

PAM 105, p. 1. (Bold print in original.).

I conclude that the phrase "protect client rights" means that DHS is responsible to provide to the customer all benefits to which he is entitled. However, at the hearing in this case, DHS presented no evidence to explain why Claimant was not awarded benefits for November 1-15, 2008. Also, DHS presented no reasons or explanation for the denial of benefits for this period.

Because there is nothing to substantiate the denial of RAP benefits to Claimant for this pay period, I conclude that Claimant's RAP benefits were withheld in error for the November 1-15, 2008 pay period. Based on all of the applicable DHS policies and procedures, and all of the findings of fact in this case, I conclude that Claimant is entitled to additional RAP benefits for the pay period of November 1-15, 2008.

Accordingly I PARTIALLY REVERSE DHS' action in this matter. I find that DHS was correct in issuing RAP benefits from November 15, 2008-May 31, 2009, but DHS was incorrect in failing to issue RAP benefits to claimant for the pay period of November 1-15, 2008. I PARTIALLY REVERSE DHS and find that Claimant is eligible to receive RAP benefits for November 1-15, 2008, provided all other eligibility factors are met.

I note also that DHS cites PEM 225A, "Special Immigration Status," as authority in this case. PEM 225A, effective October 1, 2008, applies to people who applied for a Special Immigrant Visa (SIV) after December 26, 2007. Claimant's Exhibit 1 is an SIV application dated September 11, 2007, which is a date before December 26, 2007. I, therefore, conclude that PEM 225A does not apply in this matter.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS' action in this matter is, in part, correct and, in part, incorrect, and DHS shall be PARTIALLY REVERSED. DHS correctly provided RAP benefits to

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Claimant from November 15, 2008-May 31, 2009. DHS incorrectly failed to provide RAP benefits to Claimant for November 1-15, 2008.

Claimant's application for RAP benefits for the November 1-15, 2008 pay period shall be processed and, if all other eligibility factors are met, shall be approved.



Jan Leventer
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: July 29, 2010

Date Mailed: July 29, 2010

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

JL/pf

cc:

