

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],
Claimant

Reg. No: 2009-37113
Issue No: 3025
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 22, 2009
Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a hearing was held on October 22, 2009.

ISSUE

Was the claimant's FAP application properly denied because of claimant's resident alien status?

FINDINGS OF FACT

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

- (1) Claimant applied for FAP in Macomb County.
- (2) No person in claimant's proposed FAP group is a citizen of the United States.
- (3) Claimant's date of entry into the United States is [REDACTED].
- (4) Claimant's residency status is not one of the residency statuses specifically provided for in program policy.

- (5) On August 13, 2009, claimant's FAP application was denied for a failure to meet residency requirements.
- (6) On August 24, 2009, claimant requested a hearing into the matter.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

A person must be a U.S. citizen or have an acceptable alien status for the designated programs. BEM 225. There are several acceptable alien statuses for the purposes of the FAP program, including refugee status and disability status, among others. However, if a claimant does not meet those statuses, the claimant must be a person who has lived in the U.S. as a qualified alien for at least five years since their date of entry in order to be eligible for FAP benefits. BEM 225. All resident aliens must be qualified aliens in order to be eligible for benefits; however not all qualified aliens have the appropriate alien status necessary to be eligible for benefits. BEM 225. Generally speaking, a qualified alien is a resident who has been legally admitted into the United States. BEM 225.

Claimant entered the country on [REDACTED]. There is no dispute as to claimant's legal status; claimant possesses a legal permanent residence card, and is a legal resident of the United States. However, this status only speaks to whether claimant is a qualified alien. Not all qualified aliens are eligible for FAP benefits. BEM 225. In order to be eligible for FAP benefits,


a qualified alien must also have an acceptable residence status. These acceptable status, include, among other things, being a qualified military alien, a holder of immigration status RE or AS, certain refugees and asylum seekers, battered aliens, members of the Hmong tribe, and disabled aliens. After an examination of claimant's alien status, the undersigned has concluded that claimant does not meet any of the acceptable alien statuses. Therefore, the policy contained in BEM 225 directs an examination of the length of time claimant has been a resident of the United States; in order to be eligible for benefits, a qualified alien must have resided in the country for at least 5 years.

Claimant legally entered the country on [REDACTED]. This does not meet the 5 year requirement. Therefore, claimant is not legally entitled to benefits, and the decision of the Department must be affirmed, because claimant does not meet the alien status requirement.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department's decision to deny claimant's assistance application was correct.

Accordingly, the Department's decision in the above stated matter is, hereby,
AFFIRMED.



Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 12/17/09

Date Mailed: 12/21/09

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 60 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt 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.

RJC/dj

cc:

