

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.: 2009-18394
Issue No.: 2005, 3025
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
July 23, 2009
Macomb County DHS (36)

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on July 23, 2009. The Claimant appeared and testified. Claimant's brother, [REDACTED], was also present. [REDACTED], Program Manager, appeared for the Department.

ISSUE

Whether the Department properly denied the Claimant's MA and FAP cases based on lack of verification of citizenship?

FINDINGS OF FACT

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

1. The Claimant applied for FAP and MA on January 2, 2009. (Exhibits 1 & 2).
2. On January 17, 2009, the Department denied the request due to lack of verification of acceptable alien status.

3. No notice of denial was located in the file. The Department indicated that the notice was remailed on April 7, 2009.
4. Claimant testified that he has been a resident alien since 1960, but that his ex wife destroyed his green card. Claimant was unable to obtain a copy of his green card because he did not have the fees to pay for the replacement.
5. Claimant indicated that he has an alien registration number which he knows by heart, but he did not have it in writing on the date of application.
6. Claimant reapplied for benefits on March 20, 2009 and was again denied due to lack of citizenship or alien verifications. (Exhibit 5 & 6).
7. Claimant testified that he will be receiving his green card in the mail soon.
8. On April 9, 2009 the Department received the Claimant's hearing request protesting the termination of the FAP benefits.

CONCLUSIONS OF LAW

The Food Assistance Program, 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"), formally known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in the Program Administrative Manual ("PAM"), the Program Eligibility Manual ("PEM"), and the Program Reference Manual ("PRM").

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (formerly known as the Family Independence Agency) administers the MA

program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

A person must be a U.S. citizen or have an acceptable alien status for the designated programs. A person is lawfully residing in the U.S. if he meets one of the following criteria:

- 1) Is a Qualified Alien. Qualified alien means an alien who is:
 - a) Lawfully admitted for permanent residence under the INA.
 - b) Granted asylum under section 208 of the INA.
 - c) A refugee who is admitted to the U.S. under section 207 of the INA. See PEM 225A for Iraqi and Afghan special immigrants.
 - d) Paroled into the U.S. under section 212(d)(5) of the INA for a period of at least one year.
 - e) An alien whose deportation is being withheld under section 241(b)(3) or 243(h) of the INA.
 - f) Granted conditional entry pursuant to section 203(a)(7) of the INA.
 - g) A Cuban/Haitian entrant.
 - h) An alien who has been battered or subjected to extreme cruelty in the U.S. by a U.S. citizen or legal permanent resident spouse or parent, or by a member of the spouse or parent's family living in the same household, or is the parent or child of a battered person.

The alien status of each noncitizen requesting benefits MUST be verified. For permanent resident alien status the following documents are acceptable for verification:

1. I-151 or I-551, or
2. I-327 (unexpired), or
3. I-94 stamped "Processed for I-551," or
4. Passport stamped "Processed for I-551 Temporary Evidence of Lawful Admission for Permanent Residence".

For MA and AMP, The coverage of a person who is unable to obtain verification of alien status, or refuses to cooperate in obtaining it, is limited to emergency services until verification is obtained.

A request for public assistance may be in person, by mail, telephone or through by an internet application. PAM 110, p. 1. Clients must complete and sign public assistance applications. PAM 115, p. 1. An application is incomplete until enough information is provided to determine eligibility. PAM 115, p. 3. The Department is required to process each application within a specified time period. This standard of promptness begins the date the department receives an application/filing form, with minimum required information. PAM 115, p. 10-11. The Department is required to approve or deny the application and mail the client a notice within 45 days. PAM 115, p. 11. The Standard of promptness for MA cases cannot be changed for any reason.

In the subject matter, the Department processed the case within the required 45 days but there was no proof of notice of denial in the file. Therefore, The Department has failed to meet the Standard of Promptness. Claimant, however, did not have proof of his alien status at the time of the first application on 1/2/04 or the second application on 3/20/09. The regulations are clear and specific about the verification that must be produced. It was irrelevant that Claimant knew his green card number by heart as the Department was still required to have the verification in hand before Claimant could be awarded benefits.

Therefore, it is found that the Department acted in accordance with department policy resulting in denying Claimant FAP and MA benefits. Claimant is entitled to reapply for FAP and MA benefits at any time after he receives verification of his alien status.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department did not properly notify Claimant of his denial of claim. The Administrative Law Judge further finds that the Department properly denied the Claimant FAP and MA benefits based on lack of verification of alien status.

Accordingly, it is Ordered that the Department's denial of Claimant's FAP and MA benefits on 1/17/09 and 3/20/09 are AFFIRMED.

/s/

Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 08/20/09

Date Mailed: 08/25/09

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.

JV/jlg

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