

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: 2009-3225
Issue No: 4031
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 1, 2009
Eaton County DHS

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

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 telephone evidentiary hearing was held on October 1, 2009. Claimant was represented at the administrative hearing by her son, [REDACTED], who has POA pursuant to communication from CMH.

ISSUE

Did the Department of Human Services (DHS) properly deny claimant's State Disability Assistance (SDA) application?

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's son applied on behalf of claimant for SDA. On the application in the box which asks whether or not an individual is disabled, the answer checked off was "no."
- (2) Claimant is over 65.

(3) Claimant is not a U.S. citizen.

(4) Claimant currently receives MA-M.

(5) On 9/22/08, the DHS issued a notice of denial to claimant informing her that she was denied SDA on the grounds that she was not disabled. The department stipulated at the administrative hearing that this was incorrect as policy does not in fact require individuals over 65 to be disabled.

(6) Claimant would not otherwise be eligible under the citizenship/alien status policy.

(7) Claimant is a permanent resident alien who entered the U.S. after 8/22/96 and has been in the U.S. for more than five years.

(8) On 10/14/08, claimant filed a hearing request.

CONCLUSIONS OF LAW

The State Disability Assistance (SDA) program which provides financial assistance for disabled persons is established by 2004 PA 344. The Department of Human Services (DHS or department) administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Applicable policy and procedure is found in BEM Item 261 and 225. See also PEM Item 225, 226, RFF 551.

In this case, while not in the evidentiary packet, the department indicated that claimant was denied on the grounds that she represented that she was not disabled. However, the department stipulated that this was incorrect as an individual who is over 65 does not need to be disabled but may be eligible for SDA if certain other eligibility criteria are met. BEM Item 261.

In this case, the reason given in the DHS denial was incorrect. However, claimant would be ineligible in the alternative under the citizenship/alien policy. BEM Item 225. This policy

states that in order to be eligible for SDA, if an individual is over 65, an applicant must meet the requirements found in BEM Item 225. This item states that individuals who fall under claimant's class--permanent resident alien who entered the U.S. after 8/22/96 and have been in the U.S. for more than five years, are not eligible unless certain exceptions found in Items a, b or c are met. Unrefuted evidence on the record is that claimant does not meet this criteria.

While the department denied for an incorrect reason, this Administrative Law Judge upholds the DHS denial on the alternative grounds that claimant would still be ineligible on the basis of the citizenship/alien status policy. For these reasons, this Administrative Law Judge upholds the denial.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department's actions were correct.

Accordingly, the department's denial of claimant's SDA is hereby UPHELD.

/s/ _____
Janice Spodarek
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: October 12, 2009

Date Mailed: October 13, 2009

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 mailing date of the rehearing decision.

JS/cv

cc:

