

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

IN THE MATTER OF:



Reg. No: 201018647
Issue No: 2005; 3025
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 26, 2010
Wayne 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 July 26, 2010.

ISSUE

Were the claimant's MA and FAP cases properly reduced because of alien status requirements?

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 was a FAP and MA recipient in Wayne County.
- (2) No person in claimant's proposed MA group is a citizen of the United States.
- (3) Claimant entered the country in 2007.
- (4) Four of claimant's group members are over the age of 18.

- (5) Claimant's residency status is not one of the residency statuses specifically provided for in program policy.
- (6) Claimant's residency status was incorrectly coded.
- (7) DHS discovered the error and subsequently removed four people from the group FAP case and reduced the MA benefits accordingly.
- (8) On January 22, 2010, claimant requested a hearing into the matter.

CONCLUSIONS OF LAW

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 (DHS or Department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM) and Reference Tables (RFT).

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 MA and FAP program, including refugee and asylum 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 with an acceptable residency code for at least five years since their date of entry in order to be eligible for full benefits. BEM 225. Otherwise, a claimant is only eligible for certain programs. A claimant without a qualifying residency status can also qualify for FAP benefits as long as they are less than 18 years of age. 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 in 2007. 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 full benefits. BEM 225. In order to be eligible for full MA benefits, a qualified alien must also have an acceptable residence status. These acceptable statuses include, among other things, being a qualified military alien, a holder of immigration status RE or AS, and certain refugees and asylum seekers. 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 full benefits, a qualified alien must have resided in the country for at least 5 years, if they are not under 18 years of age.

Claimant and the specified group members legally entered the country in 2007. This does not meet the 5 year requirement. Therefore, claimant and the group

members in question are 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 lower claimant's FAP and MA benefits were 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: 10/25/10

Date Mailed: 10/25/10

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.

RJC/dj

cc:

