

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.: 2010-18809

Issue No.: 3025

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

March 18, 2010

Macomb County DHS (20)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 March 18, 2010. The Claimant appeared and testified. [REDACTED] and [REDACTED] also appeared and testified on Claimant's behalf. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, and [REDACTED], Specialist, appeared and testified.

ISSUE

Whether DHS properly denied Claimant's Food Assistance Program (FAP) application dated 12/16/09 based on Claimant's 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 on 12/16/09.
2. Claimant's application indicated a FAP group of four.

3. The FAP group members have been permanent residents since 7/21/05. Exhibit 2.
4. The FAP group members each have a category code of F41, F42, F43 or F44.
5. On 12/18/09, DHS denied Claimant's FAP application on the basis that Claimant and all FAP group members do not meet the citizenship/alien status requirements.
6. On 1/4/10, Claimant timely appealed the denial of 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 Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Reference Table Manuals ("RFT").

The DHS policy regarding citizenship and alien status requirements for FAP is found in BEM 225. BEM 225 states, "A person must be a U.S. citizen or have an acceptable alien status for the designated programs." The following persons are considered to have an acceptable alien status: born in Canada and at least 50% American Indian, member of American Indian tribe, qualified military alien, spouse or child of qualified military alien, refugee, asylee, Cuban/Haitian entrant, Amerasian, victim of trafficking, permanent resident alien with a class code of RE or AS or permanent resident alien with a class code other than RE, AM or AS whose United States entry occurred before 8/22/96. Claimant and all FAP group members do not meet any of the aforementioned alien statuses.

BEM 225 also allows FAP eligibility for legal immigrants with a class code other than RE, AM or AS who entered the United States after 8/22/96 if any of the following: person has 40 countable Social Security credits, age 65 or older as of 8/22/96 and was residing in United States on 8/22/96, Hmong or Laotian (with other requirements), received SSI on 8/22/96, currently blind, currently disabled or under 18 years of age. Again, Claimant and all FAP group members' circumstances do not fall into any of the above categories.

Each of the FAP group members lacks an alien status that would create eligibility for FAP. DHS correctly found the FAP group ineligible for FAP and correctly denied Claimant's 12/16/09 FAP application.

It should be noted that the DHS representatives skillfully explained and applied policy indicating that Claimant had prior eligibility for FAP when he was under 18 years of age. DHS similarly advised that Claimant may be eligible for FAP five years after the date of entry into the United States.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS correctly denied Claimant's 12/16/09 FAP application. Accordingly, the Department's FAP denial is AFFIRMED.



Christian Gardocki
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 4/1/2010

Date Mailed: 4/1/2010

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 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.

CG/jlg

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