

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

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

Reg. No: 2010-22625
Issue No: 1033, 2024
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 6, 2010
Kalamazoo County DHS

ADMINISTRATIVE LAW JUDGE: Ivona Rairigh

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, an in-person hearing was held on October 6, 2010. Claimant personally appeared but did not testify as she does not speak English. Claimant's husband [REDACTED] appeared and testified on family's behalf.

ISSUE

Did the department correctly determine that the claimant was not eligible for Family Independence Program (FIP) and Medicaid (MA) benefits, as she and her family did not intend to stay in Michigan?

FINDINGS OF FACT

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

1. Claimants are citizens of [REDACTED] and in United States on student visa as [REDACTED] attends [REDACTED].
2. Claimants' U.S. visas expire on December 15, 2013.
3. Department determined in February, 2010 that the claimants are not eligible for FIP and MA because they lack intent to stay in Michigan, and terminated their benefits.
4. Claimants requested a hearing on February 16, 2010.

CONCLUSIONS OF LAW

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department of Human Services (DHS or department) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (RFT).

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 Program Reference Manual (RFT).

Department's policy states that in order for a person to be eligible for departmental programs they must be a Michigan resident. For FIP eligibility purpose a person is a Michigan resident if he/she is living in Michigan, except for a temporary absence, **and** intends to remain in the state permanently or indefinitely. For MA eligibility purpose, a person is a Michigan resident if he/she lives in Michigan, except for a temporary absence, **and** intends to remain in Michigan permanently or indefinitely. If the individual indicates an intent to remain in Michigan, but his official [REDACTED] documents indicate a **temporary or time-limited period** to the visit, the individual does **not** meet the intent to remain requirements, unless he verifies that official steps are being taken with USCIS to apply for lawful permanent resident status. Policy verification requirements for intent to remain in Michigan state that an individual's statement of intent to remain in Michigan is to be accepted unless the statement is inconsistent or conflicts with known facts. BEM 220.

Claimant provided variety of documents at the hearing trying to prove his intent to stay in Michigan, including his Michigan driver's license, Department of State Internet information, [REDACTED] teaching doctorate award for 2010, e-mail from a real estate agent discussing family's interest in buying a home, letters from a university in [REDACTED], 2008 permanent visa lottery family has applied for along with numerous others that wish to remain in the U.S., Head start documents for his children, etc. However, claimant's situation is rather simple. [REDACTED] is receiving a generous stipend from the [REDACTED] government, \$1900 per month after his school expenses are also paid by this government. [REDACTED] government would not be paying for [REDACTED] schooling if he informed them he would not be returning to [REDACTED] so that country can benefit from his education. U.S. government has only approved family's student visas until December 15, 2013, and after that date the family is in this country illegally unless they receive some other immigration status. While the family may wish to remain in the U.S. and Michigan indefinitely, legal documentation clearly

shows such intent is not possible at this time. [REDACTED] wants to obtain benefits from his country of [REDACTED] by not giving that government information about his desire to remain in the U.S. and not pay back the expenses of his education by contributing his educational expertise to that country. At the same time [REDACTED] wants to obtain welfare benefits from this country by stating he intends to remain here even though he has no legal right to do so at the present time.

This pleasant, well-educated and well-spoken individual was given additional time to provide specific statement from [REDACTED] regarding his intent to stay in Michigan and that he can legally do so. Such extension expired on November 6, 2010, and nothing additional has been provided as of the date of this decision. Therefore, department correctly determined that this family cannot possess the intent to stay in Michigan, as their legal documentation clearly shows different intent.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department correctly determined that the claimant and her family were not eligible for FIP and MA benefits.

Accordingly, department's action is AFFIRMED, and it is SO ORDERED.

/s/ _____

Ivona Rairigh
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: December 29, 2010

Date Mailed: December 29, 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 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.

IR/tg

cc:

