

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201040812  
Issue No.: 2005 3025  
Case No.: [REDACTED]  
Load No.: [REDACTED]  
Hearing Date: August 4, 2010  
Macomb County DHS

**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 held on August 4, 2010. The claimant appeared and testified; [REDACTED] also appeared and testified on behalf of Claimant. [REDACTED] appeared as an interpreter for Claimant. On behalf of Department of Human Services (DHS), [REDACTED], Specialist, appeared and testified.

**ISSUE**

Whether DHS properly found Claimant and his spouse ineligible for Food Assistance program (FAP) and Medical Assistance (MA) benefits due to Claimant's failure to meet each program's citizenship/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 applied for FAP and MA benefits on 3/11/10.
2. Claimant is part of a two person household which includes Claimant and his spouse.
3. Claimant and his spouse are non-disabled and non-disabled veterans under 65 years of age.

4. Claimant and his spouse are legal immigrants who entered the United States on 3/6/06.
5. Claimant and his spouse do not have a special immigration status and are not refugees or asylees.
6. On 3/11/10, DHS found Claimant and his spouse ineligible for FAP benefits for lacking a group member that meets the FAP citizenship/alien status requirements.
7. On 3/11/10 DHS found Claimant and his spouse ineligible for MA benefits for not being eligible for any available MA programs.
8. Claimant requested a hearing on 4/12/10 disputing the DHS denial of his FAP and MA benefits; Claimant also requested a hearing concerning a denial of cash benefits but testified that he is not currently contesting that issue.

### **CONCLUSIONS OF LAW**

#### **Food Assistance Program**

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 (formerly known as the Family Independence Agency) administers the FAP program pursuant to CML 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).

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 his spouse 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),

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received SSI on 8/22/96, currently blind, currently disabled or under 18 years of age. Again, Claimant's and his spouse's 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 Claimant's FAP group ineligible for FAP benefits and correctly denied Claimant's 3/11/10 application for FAP benefits.

#### Medical Assistance

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

The MA program was designed to assist needy persons with medical expenses. The State of Michigan has set guidelines for income, which determines if a Medical Assistance recipient falls within the needy classification. Recipient with excess income for Medicaid are not eligible for ongoing Medicaid. However, such recipients may still be eligible for Medicaid under the deductible program.

Claimant and his spouse are non-disabled, non-senior (under 65 years of age) and non-caretakers of minor children. As such, Claimant and his spouse are not eligible for any Medicaid programs. Claimant and his spouse could only be eligible for Adult Medical program (AMP) benefits.

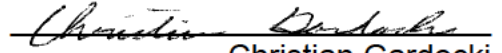
AMP is a non-Medicaid MA program. Currently, DHS has a freeze on AMP enrollments. Applications received during the freeze on AMP enrollments must be registered and denied using "applicant did not meet other eligibility requirements" as the denial reason. BEM 640 at 1. It is found that DHS properly denied Claimant and his spouse MA coverage as Claimant and his spouse do not meet any of the circumstances to receive Medicaid and DHS is not currently processing applications for AMP coverage.

It was noted during the hearing that Claimant and his spouse would only be eligible for emergency-only-Medicaid due to their failure to meet the citizenship/alien status requirements for Medicaid. Claimant was properly advised by DHS to reapply for MA benefits upon his 65<sup>th</sup> birthday, if Claimant is disabled and/or after the fifth year of Claimant's United States entry.

**DECISION AND ORDER**

The actions taken by DHS are AFFIRMED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly denied Claimant's 3/11/10 application for FAP and MA benefits.

/s/

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

Date Signed: August 11, 2010

Date Mailed: August 11, 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.

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cc:

