

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.: 2010-44804  
Issue No.: 2024  
Case No.: [REDACTED]  
Load No.: [REDACTED]  
Hearing Date: August 30, 2010  
DHS County: Macomb

**ADMINISTRATIVE LAW JUDGE:** Linda Steadley Schwarb

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon request for a hearing. After due notice, a hearing was held on August 30, 2010. Claimant's Estate was represented by [REDACTED] on behalf of the Special Personal Representative of claimant's Estate.

**ISSUE**

Did the Department of Human Services (DHS or department) properly deny claimant's application for Emergency Services Only–Medical Assistance (ESO-MA) because claimant was not a Michigan resident?

**FINDINGS OF FACT**

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

1. On September 17, 2009, claimant of [REDACTED] was issued a Non-Immigrant Temporary Visitor for Pleasure (B-2) Visa. The visa was to expire September 16, 2010.
2. On December 1, 2009, an application was filed on claimant's behalf for ESO-MA benefits.
3. On [REDACTED], claimant died.
4. On February 19, 2010, the department denied claimant's application for failure to provide verification of eligibility.

5. On April 15, 2010, a Special Personal Representative was appointed by the ██████████ County Probate Court to represent claimant's Estate.
6. The Special Personal Representative of the Estate authorized ██████████ to represent the Estate in the appeal for MA benefits.
7. On April 20, 2010, the authorized representative requested a hearing to protest the department's determination regarding the December 1, 2009, application.
8. At the hearing, the department clarified that the reason the December 1, 2009, application was denied was because claimant's United States Citizenship and Immigration Service (USCIS) documentation did not meet the "intent to remain" requirement of BEM Item 220, pp. 1 and 2, for Michigan residency.

### **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 Program Administrative Manual (BAM), the Program Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Relevant policy in this matter is as follows:

#### **USCIS Non-Immigrant Classifications**

These classifications indicate temporary or time-limited status. They include but are not limited to the following:

...

- B. Visitors for business or pleasure, including exchange visitors; (B1, 2).

BEM Item 225, p. 29.

#### **MA and AMP**

Citizenship/alien status is not an eligibility factor for emergency services only (ESO) MA. However, the person must meet all other eligibility factors including residency; see BEM 220.

BEM 225, p. 2.

## RESIDENCE

### MA Only (non-institutionalized persons)

An individual is a Michigan resident if either of the following apply:

- He 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 USCIS 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.

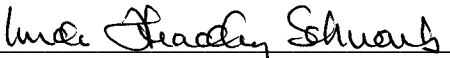
BEM Item 220, pp. 1 and 2.

In this case, claimant came into this country with a Temporary Visitor for Pleasure (B-2) Visa. The Visa was time-limited and set to expire on September 16, 2010. The record provides no verification or indication that official steps had been taken with USCIS to apply for lawful permanent resident status. Thus, claimant did not qualify as a Michigan resident. See BEM Item 220, pp. 1 and 2. Since an ESO-MA applicant/recipient must meet the residency eligibility factor (BEM Item 225, p. 2), the department properly denied claimant's application and its determination must be affirmed.

### DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department of Human Services properly denied claimant's application for Emergency Services Only-Medical Assistance because claimant was not a Michigan resident.

Accordingly, the department's determination in this matter is hereby affirmed.

  
Linda Steadley Schwarb  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: September 7, 2010

Date Mailed: September 7, 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.

LSS/pf

cc:

