

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.: 2010-6880
Issue No.: 2005, 3025
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
March 11, 2010
Oakland County DHS (03)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and 400.37 and upon Claimant's request for a hearing. After due notice, a telephone hearing was conducted on March 11, 2010. The Claimant appeared and testified with the assistance of an interpreter, [REDACTED]. [REDACTED] [REDACTED], appeared on behalf of the Department of Human Services (DHS).

ISSUES

1. Whether the Department properly denied Food Assistance (FAP) benefits to Claimant and his wife?
2. Whether the Department properly denied Medical Assistance (MA or Medicaid) benefits to Claimant?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence in the record, and on the entire record as a whole, makes the following findings of fact:

1. The Claimant and his wife became Permanent Residents of the United States on November 20, 2006.
2. Claimant has an Alien Registration Receipt Card (I-551), also known as a green card.
3. Claimant was denied FAP benefits for his wife and himself and MA benefits for himself on October 10, 2009.
4. Claimant filed a request for hearing on October 27, 2009.
5. DHS denied all benefits based on Claimant's failure to provide proof of citizenship or immigration status.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP), formerly known as the Food Stamp program, was established by the Food Stamp Act of 1977 and is implemented by Federal regulations found in Title 7 of the Code of Federal Regulations (CFR). DHS, formerly known as the Family Independence Agency, administers the FAP program pursuant to MCL 400.10, *et. seq.* and Michigan Administrative Code Rules 400.3001-3015. DHS policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Medical Assistance (MA or Medicaid) program is established by Title XIX of the Social Security Act and is implemented by CFR Title 42. DHS administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. DHS policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

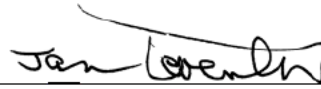
DHS denied Claimant's FAP and MA benefits based on his status as an alien. BEM Section 225 contains DHS policy regarding citizenship and alien status. "Exhibit II – Citizenship/Alien Status Table," is found in BEM 225 at pp. 25-26. At line 17 of the Table, it states that a permanent resident alien who has an I-151, which is called a green card, is eligible for both FAP and MA benefits. Claimant does not have an I-151, which became obsolete in 1996, but he does have an I-551 green card, which is the replacement version of the I-151. Both cards are listed on page 28 of BEM 225 as valid U.S. State Department citizenship documents. I conclude as a matter of law that the I-551 card is the equivalent of the I-151 card and Claimant's possession of an I-551 does qualify him just as if he had the I-151. BEM 225, pp. 25-26, 28.

DHS presented no evidence or authority to persuade the Administrative Law Judge that a different conclusion would be correct. DHS took one position in the Notice of Case Action, a second position in the Hearing Summary, and a third position at the March 11, 2010, hearing. DHS' Notice of Action states that, "You or a group member is not a citizen or eligible alien or has not provided proof of citizenship or immigration status." DHS' Hearing Summary states, "There are no eligible members for the FAP due to alien status requirements and client continues to receive emergency medical services." The DHS representative testified at the hearing that Claimant was ineligible because he did not meet the requirement of five years residency found in BEM 225. I find these positions inconsistent and unpersuasive and conclude, as a matter of law, that Claimant has met the requirements of BEM 225.

Accordingly, based upon the foregoing facts and relevant law, the DHS determination is REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS improperly denied Claimant's FAP and MA benefits, due to alien status. The DHS denials are REVERSED, and DHS is ordered to process Claimant's applications for FAP and MA benefits. Claimant is ordered to produce his I-551 green card to DHS for verification purposes.



Jan Leventer
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: March 15, 2010

Date Mailed: March 16, 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.

JL/pf

cc:

