

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.: 2010-36685

Issue No.: 3025

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

June 17, 2010

Macomb County DHS (36)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) Sections 400.9 and 400.37, and Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan, on June 17, 2010. Claimant appeared and testified. [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether Claimant, who is a Permanent Resident Alien, is eligible for Food Assistance Program (FAP) benefits?

FINDINGS OF FACT

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

1. Claimant is a Permanent Resident Alien who has been in the USA less than five years.

2. On December 1, 2009, Claimant's application for FAP benefits was denied due to her status as a Permanent Resident Alien who has been in the USA less than five years.
3. On May 12, 2010, Claimant filed a Notice of Hearing request.

#### CONCLUSIONS OF LAW

FAP 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 administers FAP pursuant to MCL 400.10 *et seq.* and Michigan Administrative Code Rules 400.3001-3015. DHS' FAP policies and procedures can be found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT). These manuals are available online at [www.mich.gov/dhs-manuals](http://www.mich.gov/dhs-manuals).

The Manual section that states the DHS policy and procedure for the matter before me is BEM 225, "Citizenship/Alien Status." BEM 225 states that eligibility for the different DHS programs may depend on whether the person meets DHS' definition of "Qualified Alien." BEM 225, p. 3.

The DHS definition of qualified alien includes only eight specific alien statuses. I conclude that Claimant falls under the first of the eight types, "an alien who is lawfully admitted for permanent residence under the U.S. Immigration and Naturalization Act." Therefore, Claimant is a qualified alien for purposes of DHS programs. *Id.*

Once a person is determined to be a qualified alien, a second requirement arises, and this is the requirement of "Acceptable Status." This part of BEM 225 indicates that, even if a person is in one of the eight alien statuses, they nonetheless may not be accepted for a particular DHS

benefit program. DHS administers numerous programs and the qualifications are different for each of the programs. *Id.*, pp. 4-8.

In this case, Claimant seeks FAP benefits, and I must consider whether she can be accepted into the FAP program. Claimant may be accepted in FAP if she is in one of five categories: (1) she has been in the U.S. since August 22, 1986 and was 65 years or older then; (2) she is a Hmong or Highland Laotian tribe member; (3) she is disabled; (4) she has been here for at least five years; or, (5) she is under 18 years of age. I conclude that the only possible acceptable category Claimant could be in is that she may be disabled. In order to determine if Claimant is disabled, I look to the BEM 225 disability definition. *Id.*, pp. 7-8.

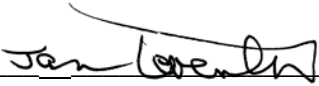
BEM 225 states there are five disability categories that are recognized as acceptable statuses in order to receive FAP benefits: (1) the person receives SSI, RSDI, MA or railroad retirement benefits based on disability or blindness; (2) the person is a disabled veteran according to the U.S. Veterans Administration; (3) the person is a veteran or a surviving spouse, and is considered by the Veterans Administration to be in need of regular aid and attendance or is permanently housebound; (4) the person is a surviving child of a veteran and is permanently incapable of self-support; or, (5) the person is a surviving spouse or child of a deceased veteran and has a permanent disability. *Id.*, p. 8.

I conclude that Claimant does not fall within any of the five disability categories in BEM 225 and is, therefore, not entitled to FAP benefits. *Id.*

I conclude that DHS' December 1, 2009, denial of FAP benefits to Claimant is, therefore, correct and is AFFIRMED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, determines that DHS' denial of Claimant's FAP benefits is correct and is AFFIRMED. The Department need take no further action.

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

Date Signed: June 21, 2010

Date Mailed: June 21, 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:

