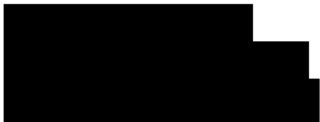


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARING FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 201124554
Issue No: 2005
Case No: [REDACTED]
Hearing Date: June 8, 2011
Kalamazoo County DHS

ADMINISTRATIVE LAW JUDGE: Kandra Robbins

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on March 9, 2011. After due notice, a telephone hearing was held on June 8, 2011. The Claimant and her husband, Hafiz Akbar, were present and testified. Mr. Akbar translated for his wife.

ISSUE

Whether the Department of Human Services (Department) properly processed the claimant's Medical Assistance (MA) Application?

FINDINGS OF FACT

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

1. The claimant submitted an application for MA on November 30, 2010 (Hearing summary).
2. On November 30, 2010, the Department sent a DHS 3503 Verification Checklist to the claimant requesting verification of her Alien Status. The Verification Checklist requested proof of immigration status for the claimant. (Department Exhibit 1, pg 15-16).
3. On December 7, 2010, the claimant submitted a Michigan Identification Card, an Employment Authorization Card with an expiration date of November 30, 2011, and a Social Security Valid for Work Only Card. (Department Exhibit 1, pg 9).

4. On December 15, 2010, the claimant was sent a DHS 1605 Notice of Case Action indicating that her MA Application was approved only for emergency medical services as a pregnant woman. (Department Exhibit 1, pg 10-14)
5. On January 2, 2011, the claimant submitted a Visa with an expiration date of February 28, 2009. (Department Exhibit 1, pg 8)
6. On March 2, 2011, the Department received the claimant's Request for Hearing.

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901 - .951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his claim for assistance is denied. MAC R 400.903(1) An opportunity for a hearing shall be granted to an applicant who requests a hearing because of a denial. MAC R 400.903(2)

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. BAM 600. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

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), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM). Department policy states:

BEM 105 DEPARTMENT POLICY

MA Only

The goal of the Medicaid program is to ensure that essential health care services are made available to those who otherwise could not afford them. Medicaid is also known as Medical Assistance (MA).

BEM 220 DEPARTMENT POLICY

All Programs

USCIS refers to the U.S. Citizenship and Immigration Services, formerly, the Bureau of Citizenship and Immigration or Immigration and Naturalization Service. To

be eligible, a person must be a Michigan resident. Bridges uses the requirements in the [Residence](#) section in this item to determine if a person is a Michigan resident.

MA Only (noninstitutionalized persons)

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

- He lives in Michigan, except for a temporary absence, **and** intends to remain in Michigan permanently or indefinitely.
- If the individual indicates 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; see BEM 225.

In this case, the claimant, a pregnant woman, filed an application for assistance. The claimant is not a United States Citizen. Although the claimant and her husband state that they intend to remain in Michigan and have applied to change their official status, they did not provide the Department any documentation to support this claim at the time of the application. The Department sent a DHS 3503 Verification Checklist.

The Verification Checklist required documentation to prove the claimant's immigration/ alien status. In response, the claimant provided a Visa with an expiration date of February 28, 2009, and an Employment Authorization Card with an expiration date of November 30, 2011, that specifically stated "Not Valid for Re-entry to U.S. These are the only official documents provided to the Department to determine residency. Department policy specifically states that if an individual's official USCIS documents indicate a temporary or time-limited period, the individual does not meet the intent to remain requirements. Because the claimant's official documents have a time-limited period, the claimant does not meet the residency requirement. BEM 220.

Department policy permits an individual to provide the Department with proof that official steps are being taken to apply for lawful permanent resident status. However, the claimant never provided such documentation to the Department. The Department was able to locate an I-797C Notice of Case Action indicating that a Petition was filed in 2009. However, there was also notice stating that on May 13, 2010, the Application was denied and notice that on June 23, 2010 an appeal was filed. However, the documents were obtained from the Department of Homeland Security Web site and it is unclear as to if the claimant is included in the petition or merely her husband. At the hearing, the claimant's husband submitted 15 pages of documents. However, pages 4-8 is a Brief filed by his attorney in the USCIS Administrative Appeals Office and has no

relevancy. Because pages 2 and 3 appear to be the middle of a document with no caption or cite to the claimants it is not exculpatory. Furthermore, the order included merely orders a new hearing. It does not change the status of any individual let alone the claimant.

Because the claimant did not submit any documentation that would indicate that the claimant had taken steps to change her status to the Department as requested in the Verification Checklist, the Department properly determined that she did not meet the residency requirement of BEM 220. The official documents submitted by the claimant at the time of application and in response to the verification checklist indicate that she was only authorized to be in the United States for a time limited period. The Department properly limited her application to emergency services only.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department did properly process the claimant's application for MA.

It is SO ORDERED.

/s/
Kandra Robbins
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: June 15, 2011

Date Mailed: June 15, 2011

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.

KR/ds

cc:

