

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-46987
Issue Nos.: 2005, 3025
Case No.: [REDACTED]
Hearing Date: September 1, 2011
DHS County: Wayne (82-55)

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, which govern the administrative hearing and appeal process, and Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan, on September 1, 2011. Claimant appeared and testified. [REDACTED], interpreter, appeared and translated for Claimant. [REDACTED] appeared and testified on behalf of the Department of Human Services (DHS).

ISSUES

1. Whether DHS correctly determined that Claimant is not eligible for Food Assistance Program (FAP) benefits?
2. Whether DHS correctly determined that only one member of Claimant's family group is eligible for emergency Medical Assistance (MA or Medicaid) 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. In July, 2011, Claimant applied to DHS for FAP and MA benefits.
2. Claimant and all members of his family group are permanent resident aliens who have been in the United States less than five years.
3. On July 22, 2011, DHS denied FAP to Claimant's entire group and approved MA-Other Healthy Kids program benefits for one child in Claimant's family group.

4. DHS failed to approve emergency medical services for Claimant and the family group.
5. Neither Claimant nor his family are refugees (RE), Amerasians (AM), or Asylum Seekers (AS).
6. Neither Claimant nor his family members have at least forty countable Social Security work credits.
7. Neither Claimant nor his family group members are qualified military aliens, or the spouse or dependent child of a qualified military alien.
8. Neither Claimant nor his family group members are Hmong or Laotian, a Hmong or Laotian spouse, an unmarried dependent child currently under age eighteen, or an unremarried surviving spouse.
9. No one in Claimant's family group was living in the United States on 8/22/96, as well as meeting certain other conditions.
10. Both Claimant and his wife are over eighteen years of age.
11. Neither Claimant nor any member of his family group has been determined to be legally blind or disabled at the present time.
12. On August 2, 2011, Claimant filed a Request for a Hearing with DHS.

CONCLUSIONS OF LAW

FAP was established by the United States Food Stamp Act of 1977 and is implemented by Federal regulations contained in Title 7 of the Code of Federal Regulations. DHS administers FAP 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 (RFT). These manuals are available online at www.michigan.gov/dhs-manuals.

MA was established by Title XIX of the U.S. Social Security Act and is implemented by Title 42 of the U.S. Code of Federal Regulations. DHS administers MA pursuant to MCL 400.10 *et seq.* and MCL 400.105. DHS policies are found in BAM, BEM and RFT. *Id.*

BEM 225, "Citizenship/Alien Status," page 26, is a chart titled "Exhibit II – Citizenship/Alien Status Table." It is the DHS policy that must be applied in this case.

The chart indicates what the citizenship requirements are for six different DHS benefit programs, including FAP and MA. Claimant is in the category of persons identified on line 15 of this page, "U.S. entry on or after 8/22/96 – First five years in U.S."

The chart states that this category of individuals is not eligible for FAP benefits except under certain circumstances:

1. Claimant is a qualified military alien, or the spouse or dependent child of a qualified military alien.
2. Claimant has at least forty countable Social Security work credits.
3. Claimant is Hmong or Laotian and lawfully resides in the U.S., or is the spouse, unmarried dependent child now under age eighteen, or the unremarried surviving spouse of a Hmong or Laotian person.
4. Claimant was residing in the United States, on August 22, 1996, and certain other conditions.
5. Claimant is lawfully residing in the U.S. and is determined to be currently blind or disabled.
6. Claimant is less than eighteen years old.

Based on the rules set forth in BEM 225, therefore, Claimant and his family group are not eligible for FAP because they are permanent resident aliens who have been in the U.S. for less than five years and they do not meet any of the exceptions. It is found that DHS acted correctly in denying FAP to Claimant.

Next, with regard to MA, at the hearing DHS agreed that Claimant and his family group should be receiving MA emergency benefits. DHS agreed to revisit the case and reprocess Claimant for MA emergency benefits. It is found and concluded that DHS erred in failing to provide MA emergency benefits to Claimant and his family group according to the rules of BEM 225.

In conclusion, based on the findings of fact and conclusions of law above, it is found and decided that DHS acted correctly in denying FAP benefits to Claimant. DHS is AFFIRMED with regard to its denial of FAP benefits to Claimant. Also, it is found and concluded that DHS acted incorrectly in denying MA emergency benefits to Claimant, and as to this issue, DHS is REVERSED.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, PARTIALLY AFFIRMS and PARTIALLY REVERSES the actions of DHS in this case. DHS is AFFIRMED regarding its denial of FAP benefits to Claimant, and need take no further action regarding FAP. DHS is REVERSED with regard to its denial of MA emergency medical care benefits to Claimant and his family group. IT IS HEREBY ORDERED that DHS shall:

1. Reopen Claimant's MA application;
2. Initiate procedures to reprocess Claimant's MA application with regard to eligibility for MA emergency medical care coverage;
3. Initiate procedures to provide Claimant with supplemental retroactive MA emergency health care benefits to which he is entitled.

All steps shall be taken in accordance with DHS policies and procedures.



Jan Leventer
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: September 7, 2011

Date Mailed: September 7, 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.

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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.

JL/pf

cc:

