

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 2011-17828
Issue No.: 4008
Case No.: [REDACTED]
Hearing Date: March 10, 2011
DHS County: Oakland (63-02)

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing. After due notice, a hearing was held on March 10, 2011. Claimant's representative appeared and testified.

ISSUE

Whether the Department of Human Services (DHS or Department) properly determined that Claimant is eligible for State Disability Assistance (SDA) program benefits?

FINDINGS OF FACT

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

1. On November 23, 2010, the Department completed a review and determined that Claimant was not eligible for SDA based upon her not meeting policy requirements.
2. On January 25, 2011, Claimant requested a hearing.

CONCLUSIONS OF LAW

The SDA program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department administers the SDA program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3151-400.3180. Department policies are found in BAM, BEM and PRM.

The Department conforms to State statute in administering the SDA program.

2000 PA 294, Sec. 604, of the statute states:

Sec. 604. (1) The department shall operate a state disability assistance program. Except as provided in subsection (3), persons eligible for this program shall include needy citizens of the United States or aliens exempted from the supplemental security income citizenship requirement who are at least 18 years of age or emancipated minors meeting 1 or more of the following requirements:

- (a) A recipient of supplemental security income, social security, or medical assistance due to disability or 65 years of age or older.
- (b) A person with a physical or mental impairment which meets federal supplemental security income disability standards, except that the minimum duration of the disability shall be 90 days. Substance abuse alone is not defined as a basis for eligibility.

In the instant case, the Department at review activated Medicaid and Food Assistance Program benefits because the Claimant met the number of years in the United States requirement for permanent resident status. The Claimant entered the country on [REDACTED]. The Department determined that, according to BEM 225, the Claimant would not be eligible for SDA benefits.

The relevant policy in BEM 225, pg. 5, is:

FIP, SDA, MA and AMP

Alien admitted into the U.S. with one of the following immigration statuses:

- Permanent resident alien with a class code on the I-551 other than RE, AM or AS.
- Alien paroled into the U.S. for at least one year under INA section 212(d)(5).

Exception (both statuses above): The eligibility of an alien admitted into the U.S. on or after August 22, 1996 with one of these statuses is restricted as follows unless the alien is a qualified military alien or the spouse or dependent child of a qualified military alien:

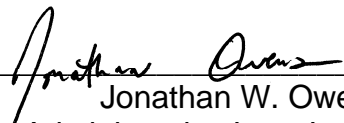
- **For FIP**, he is disqualified for the first five years in the U.S.
 - **For SDA**, he is disqualified.
 - **For MA and AMP** he is limited to emergency services for the first five years in the U.S.
- Alien granted conditional entry under INA section 203(a)(7).
 - Permanent resident alien with an I-151, Alien Registration Receipt Card.

Here, the Department correctly determined that Claimant was admitted after August 22, 1996, and would, therefore, not be eligible for SDA benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Claimant is not eligible for SDA.

Accordingly, the Department's decision is hereby UPHELD.



Jonathan W. Owens
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: March 16, 2011

Date Mailed: March 16, 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.

JWO/pf

cc:

