

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

IN THE MATTER OF:



Reg. No.: 2011-29723
Issue No.: 1033, 2005, 3023
Case No.: [REDACTED]
Hearing Date: May 12, 2011
DHS County: Oakland (03)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; MSA 16.409 and MCL 400.37; M SA 16.437 upon the Claimant's request for a hearing. After due notice a telephone hearing was held on May 12, 2011. The Claimant personally appeared and testified.

ISSUE

Did the Department of Human Services (DHS or Department) properly deny the Claimant's application for Family Independence Program (FIP), Medical Assistance (MA) and Food Assistance (FAP)?

FINDINGS OF FACT

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

1. On March 11, 2011, the Claimant applied for FIP, MA and FAP.
2. The Department denied the Claimant's FIP, MA and FAP application due to lack of citizenship and time since the Claimant's arrival in the USA.
3. On April 8, 2011, the Claimant filed a request for a hearing.

CONCLUSIONS OF LAW

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 (formerly known as the Family Independence Agency) 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) and the Bridges Reference Manual (BRM).

The Food Assistance Program (FAP) (formerly known as the Food Stamp (FS) program) is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3001-3015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 8 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers the FIP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.3101-3131. The FIP program replaced the Aid to Dependent Children (ADC) program effective October 1, 1996. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

In the instant case, the Claimant applied for FIP, MA and FAP but was denied because the Claimant had only been a resident of the United States since July 9, 2010.

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. (BEM 225, p. 5).

The Claimant entered the USA on July 9, 2010, and thus is not eligible for MA or FIP. However, the Department should have notified the Claimant that she is qualified for Emergency Services Only (ESO).

In regards to the FAP application:

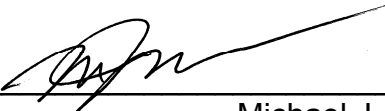
SDA and FAP

Permanent resident alien (regardless of class code) meeting the Social Security Credits (SSC) requirement; see "SOCIAL SECURITY CREDITS in this item. (BEM 225, p. 8).

Here, the Claimant does not meet the Social Security Credits limit. Therefore, she does not qualify for FAP.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, AF FIRMS the Department's decision in the instant case. In addition the Department is ORDERED to notify the Claimant that she is qualified for ESO.



Michael J. Bennane
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: June 22, 2011

Date Mailed: June 23, 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.

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cc:

