

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201130602
Issue No.: 2005; 3025
Case No.: [REDACTED]
Hearing Date: May 25, 2011
Macomb County DHS

ADMINISTRATIVE LAW JUDGE: Susan Burke

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for a hearing. After due notice, a telephone hearing was held on May 25, 2011. The Claimant was present and testified, with the assistance of her interpreter, [REDACTED] and her granddaughter, [REDACTED]. The Department of Human Services (Department) was represented by [REDACTED], ES.

ISSUE

Was the Department correct in denying Claimant's Food Assistance Program (FAP) application due to failure of alien status requirement?

Was the Department correct in its decision to approve Claimant for Medical Assistance (MA) for emergency services only due to failure of alien status requirement?

FINDINGS OF FACT

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

1. Claimant applied for FAP and MA.
2. Claimant has been a Permanent Resident of the United States since [REDACTED].
3. The Department denied Claimant's application for FAP and approved Claimant for MA for emergency services only, due to failure of alien status requirement.

4. Claimant is 72 years of age.
5. Claimant requested a hearing contesting the denial.

CONCLUSIONS OF LAW

The Food Assistance Program (FAP) 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 administers the FAP program pursuant to MCL 400.10, *et seq* and MAC R 400.3001-3015. Departmental policies are found in BAM, BEM and PRM, which includes the Reference Tables (RFT.).

The Medical Assistance (MA) program is established by the 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 (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 Program Reference Manual (PRM).

BEM 225 indicates that a person entering the United States on or after August 22, 1996 is not eligible for FAP for the first five years after entry unless certain other requirements are met. (See a, b, c, f and g, below).

- a** Unless a qualified military alien, or the spouse or dependent child of a qualified military alien.
- b** Unless permanent resident has at least 40 countable Social Security Credits.
- c** Unless lawfully residing in U.S. on 8/22/96 and age 65 or older on 8/22/96; or Hmong/Laotian lawfully residing in U.S., his spouse, unmarried dependent child under age 18 now, or unremarried surviving spouse.
- d** Unless lawfully residing in the U.S. now and was receiving SSI on 8/22/96 or was lawfully residing in the U.S. on 8/22/96 and is blind or disabled now.
- e** Means medical coverage is limited to emergency services.
- f** Unless lawfully residing in the U.S. and blind or disabled now.
- g** Unless under age 18 now. BEM 225, p. 26.

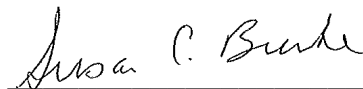
In the present case, Claimant entered the United States in [REDACTED], not meeting the five - year requirement. No evidence indicated that Claimant met the limited exceptions listed above. Therefore, the Department was correct in denying Claimant's FAP application.

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In addition, BEM 225 indicates that a person entering the United States on or after August 22, 1996 is not eligible for MA except emergency services unless a qualified military alien, or the spouse or dependant child of a qualified military alien. No evidence indicated that Claimant met the limited military alien exception. Therefore, the Department was correct in its decision to approve Claimant for MA for 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 was correct in its decision to deny Claimant's FAP application and its decision to approve Claimant for MA for emergency services only, and it is therefore ORDERED that the Department's decision is AFFIRMED.



Susan Burke
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: 6/1/11

Date Mailed: 6/1/11

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 of the rehearing decision.

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