

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

IN THE MATTER OF THE CLAIM OF:

[REDACTED]

Reg. No.: 201144862
Issue No.: 2005, 3025
Case No.: [REDACTED]
Hearing Date: August 31, 2011
Wayne County DHS (18)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 August 31, 2011. The Claimant appeared and testified. The Claimant's authorized representative, [REDACTED]rk, also appeared on behalf of the Claimant. [REDACTED], Assistance Payments Supervisor and [REDACTED], ES, appeared on behalf of the Department of Human Services.

ISSUE

Whether the Claimant and his family are eligible for Food Assistance (FAP) benefits based on their permanent resident alien status.

Whether the Claimant and his family are eligible for Medical Assistance (MA) based on their permanent resident alien status.

FINDINGS OF FACT

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

1. The Claimant and his family are all permanent resident aliens, and entered the United States on 12/26/09.
2. The Claimant and his family have not been in the United States for a 5 year period.
3. Only one of the Claimant's children is under the age of 18 and is entitled to receive food assistance.

4. The Claimant and his family currently receive Emergency Medical Services as permanent resident aliens and his child receives Other Healthy Kids emergency services.
5. The Claimant requested a hearing on July 21, 2011 regarding the change in food assistance benefits and medical assistance.

CONCLUSIONS OF LAW

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).

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 of Human Services (formerly known as the Family Independence Agency) administers the FAP program pursuant to CML 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).


In this case the Claimant seeks review of whether his family, as permanent resident aliens, are eligible for Food Assistance and Medical Assistance other than Emergency MA and OHK Emergency MA.

The answer to the question of eligibility for FAP and MA is clearly answered in BEM 225 at page 26, which provides that permanent resident aliens entering the United States after 8/22/96 are not eligible for FAP benefits unless they have been in this country for 5 years. Additionally, permanent resident aliens are only entitled to Emergency Medical Assistance. The Claimant's child under the age of 18 is eligible for FAP benefits. BEM 225, page 9.

Based on the facts presented and documentary evidence, the Department's determination to change (decrease) the Food Assistance based on the Claimant's FAP group's permanent resident alien status of less than five years residence, is correct and in accordance with Department policy. Likewise, the facts and documentary evidence support the Department's determination that the Claimant and family are only eligible for Emergency Medical Assistance (including the minor child).

DECISION AND ORDER

The Administrative Law Judge based on the above findings of fact and conclusions of law, finds that the Department correctly determined the Claimant's Food Assistance benefits, as the only eligible person is the Claimant's dependent child, as the remaining members have not resided in this country for 5 years. The Department also correctly determined that the Claimant and his family are only entitled to receive Emergency Medical Services. Accordingly, the Department's determinations are AFFIRMED.


Lynn M. Ferris
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: September 1, 2011

Date Mailed: September 1, 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 receipt 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.

LMF/hw

cc:

