

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

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

Reg. No. 2011-49429
Issue No. 1033; 2024
Case No. [REDACTED]
Hearing Date: November 3, 2011
Kalamazoo County DHS

ADMINISTRATIVE LAW JUDGE: William A. Sundquist

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, an in person hearing was held on November 3, 2011.

ISSUE

Was Michigan residency established?

FINDINGS OF FACT

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

1. On July 19, 2011, the DHS terminated claimant's FIP/Medicaid based on not meeting the Michigan residency requirement per BEM 220.
2. Claimant's Visa states it was issued August 6, 2009 with an expiration date of August 4, 2014 (Department Exhibit #3).

CONCLUSIONS OF LAW

Administrative law judges have no authority to make decisions on constitutional grounds, overrule statutes, overrule promulgated regulations or overrule or make exceptions to the department policy set out in the program manuals. Delegation of Hearing Authority, August 9, 2002, per PA 1939, Section 9, Act 280.

An individual is a Michigan resident if either of the following apply:

- . He lives in Michigan, except for a temporary absence, and intends to remain in Michigan permanently or indefinitely.
- . If the individual indicates an intent to remain in Michigan, but her official USCIS documents indicate a **temporary or time limited** to the visit, the individual does **not** meet the intent to remain requirements, unless she verifies that official steps are being taken with USCIS to apply for lawful permanent resident status. BEM 220, pages 8 and 9.

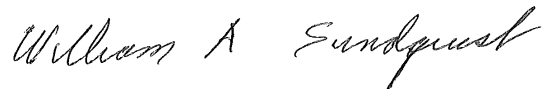
Claimant's husband argued that his wife (claimant) and he intended to remain in Michigan permanently. But the claimant had no proofs that official steps were being taken with USCIS to apply for lawful permanent residency in Michigan.

Therefore, noncompliance with residency has been established by the necessary competent, material and substantial evidence on the whole record.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that residency was not established in Michigan.

Accordingly, FIP/Medicaid termination is UPHELD.



William A. Sundquist
Administrative Law Judge
For Maura D. Corrigan, Director
Department of Human Services

Date Signed: November 29, 2011

Date Mailed: November 29, 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.

2011-49429/WAS

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.

WAS/tg

cc:

