

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.: 2011-9781
Issue No.: 3025
Case No.: [REDACTED]
Hearing Date: January 6, 2011
DHS County: Wayne (82-55)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to Michigan Compiled Laws (MCL) 400.9 and 400.37 and Claimant [REDACTED] request for a hearing. After due notice, a telephone hearing was held on January 6, 2011. Claimant appeared and testified. Claimant's wife, [REDACTED], testified as a witness for Claimant. [REDACTED] acted as Claimant's interpreter at the hearing. [REDACTED], and [REDACTED] [REDACTED], appeared and testified on behalf of the Department of Human Services (DHS).

ISSUE

Whether DHS properly denied Food Assistance Program (FAP) benefits to Claimant?

FINDINGS OF FACT

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

1. On November 23, 2010, Claimant applied for FAP, Medical Assistance (MA or Medicaid) and Adult Medical Program (AMP) benefits with DHS.
2. Claimant is a permanent resident alien and has an Alien Resident Receipt Card, known as an I-151 card.
3. Claimant is not a refugee (RE), an Amerasian (AM), or an Asylum Seeker (AS).
4. Claimant's date of entry into the United States is [REDACTED]; therefore, he has not been in the United States five years or more.

5. Claimant is not a qualified military alien or the spouse or dependent child of a qualified military alien.
6. Claimant does not have at least forty countable Social Security work credits.
7. On August 22, 1996, Claimant was not sixty-five years old or older, and was also not lawfully residing in the United States.
8. Claimant is not Hmong or Laotian, and he is not a Hmong or Laotian spouse, unmarried dependent child currently under age eighteen, or unremarried surviving spouse.
9. Claimant is not currently blind or disabled.
10. Claimant is over eighteen years of age.
11. On November 23, 2010, DHS denied FAP benefits to Claimant and granted Claimant's MA and AMP application for emergency medical services only.
12. On November 30, 2010, Claimant filed a request for hearing notice with DHS.

CONCLUSIONS OF LAW

FAP was established by the U.S. Food Stamp Act of 1977 and is implemented by Federal regulations in Title 7 of the Code of Federal Regulations (CFR). DHS administers the FAP program pursuant to MCL 400.10 *et seq.*, and Michigan Administrative Code Rules 400.3001-400.3015. DHS' policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables (RFT). These manuals are available online at www.michigan.gov/dhs-manuals.

MA was established by Title XIX of the U.S. Social Security Act and is implemented in CFR Title 42. DHS administers the MA program pursuant to MCL 400.10 *et seq.*, and MCL 400.105. DHS' policies are found in BAM, BEM and RFT. *Id.*

AMP was established by Title XXI of the U.S. Social Security Act and Section (1115)(a)(1) of the Social Security Act. AMP is administered by DHS pursuant to MCL 400.10 *et seq.* DHS' policies are contained in BAM, BEM and RFT. *Id.*

The manuals are the policies and procedures DHS officially created for its own use. While the manuals are not laws created by Congress or the Michigan State Legislature, they constitute legal authority which DHS must follow. It is to the manuals that I look

now in order to see what policy applies in this case. After setting forth what the applicable policy is, I will examine whether it was in fact followed in this case.

DHS has referred me to BEM 225, "Citizenship/Alien Status." DHS refers specifically to page 26, and I reviewed it. I agree that it is the policy that must be applied in this case.

BEM 225, p. 26, is a chart indicating what the citizenship requirements are for six different DHS benefit programs, including the three programs for which Claimant applied: FAP, MA and AMP. I find that Claimant is in the category of persons identified on line 10 of this chart, "U.S. entry on or after 8/22/96 – First five years in U.S." I find that the BEM 225 chart states that this category of individuals is not eligible for FAP benefits except under certain circumstances:

1. Claimant is a qualified military alien, or the spouse or dependent child of a qualified military alien.
2. Claimant has at least forty countable Social Security work credits.
3. Claimant was sixty-five or older, and also was residing in the United States, on August 22, 1996.
4. Claimant is Hmong or Laotian and lawfully resides in the U.S., or is the spouse, unmarried dependent child now under age eighteen, or the unremarried surviving spouse of a Hmong or Laotian person.
5. Claimant is blind or disabled.
6. Claimant is less than eighteen years old.

As set forth in the findings of fact above, I find and conclude that Claimant does not meet any of these criteria, and DHS properly denied FAP benefits to Claimant on November 23, 2010. I AFFIRM DHS' denial of FAP benefits to Claimant. DHS need take no further action with regard to Claimant's FAP application.


I next look to see if BEM 225 provides for medical services benefits for Claimant. Again, the chart on page 26, at line 10, "U.S. entry on or after 8/22/96 – First five years in U.S." is the correct authority for this question. Line 10 indicates that this group of people is eligible for emergency services only, and that this is true for both the AMP and MA programs. I AFFIRM DHS' action in granting emergency medical services only to Claimant. DHS need take no further action with regard to Claimant's MA/AMP emergency services benefits.

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Accordingly, I find and conclude that DHS has properly applied the official, correct administrative policy in this case. DHS is AFFIRMED as to its denial of FAP benefits, and its grant of MA/AMP emergency medical services to Claimant. DHS need take no further action in this matter.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law AFFIRMS the action taken by DHS in this case. DHS need take no further action in this case.



Jan Leventer
Administrative Law Judge
for Duane Berger, Director
Department of Human Services

Date Signed: January 10, 2011

Date Mailed: January 13, 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 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 date of the rehearing decision.

JL/pf

cc:

