

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No.: 20122250  
Issue No.: 2024, 3025  
Case No.: [REDACTED]  
Hearing Date: November 2, 2011  
County: Oakland DHS (03)

**ADMINISTRATIVE LAW JUDGE:** Christian Gardocki

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was held on November 2, 2011, from Detroit, Michigan. Participants on behalf of Claimant included Claimant and Claimant's authorized hearing representative (AHR) and translator, [REDACTED]. Participants on behalf of Department of Human Services (Department) included [REDACTED] Manager, and [REDACTED], Specialist.

**ISSUE**

Did the Department properly  deny Claimant's application  close Claimant's case for:

- |  |   |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP)?        | <input type="checkbox"/> Adult Medical Assistance (AMP)?    |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input checked="" type="checkbox"/> Medical Assistance (MA)?       | <input type="checkbox"/> Child Development and Care (CDC)?  |

**FINDINGS OF FACT**

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

1. Claimant  applied for benefits  received benefits for:

- |  |   |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP).        | <input type="checkbox"/> Adult Medical Assistance (AMP).    |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP). | <input type="checkbox"/> State Disability Assistance (SDA). |
| <input checked="" type="checkbox"/> Medical Assistance (MA).       | <input type="checkbox"/> Child Development and Care (CDC).  |

2. On 9/12/2011, the Department  
 denied Claimant's application       closed Claimant's case  
for FAP benefits due to a lack of group members based on citizenship; MA benefits were approved for emergency services only (ESO).
3. On 9/12/11, the Department sent  
 Claimant       Claimant's Authorized Representative (AR)  
notice of the       denial and approval for MA (ESO)
4. On 9/20/2011, Claimant filed a hearing request, protesting the  
 denial of the application and ESO decision concerning MA benefits.

### **CONCLUSIONS OF LAW**

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and 1999 AC, Rule 400.3101 through Rule 400.3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

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 FAP pursuant to MCL 400.10, *et seq.*, and 1999 AC, Rule 400.3001 through Rule 400.3015.

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.

The Adult Medical Program (AMP) is established by 42 USC 1315, and is administered by the Department pursuant to MCL 400.10, *et seq.*

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 2000 AACS, Rule 400.3151 through Rule 400.3180.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department provides services to adults and children pursuant to MCL 400.14(1) and 1999 AC, Rule 400.5001 through Rule 400.5015.

DHS regulations concerning citizenship and alien status requirements for FAP state, "A person must be a U.S. citizen or have an acceptable alien status for the designated programs." BEM 225 at 1. The following persons are considered to have an acceptable alien status: born in Canada and at least 50% American Indian, member of American Indian tribe, qualified military alien, spouse or child of qualified military alien, refugee, asylee, Cuban/Haitian entrant, Amerasian, victim of trafficking, permanent resident alien with a class code of RE or AS or permanent resident alien with a class code other than RE, AM or AS whose United States entry occurred before 8/22/96. BEM 225 at 26-28. Claimant and all FAP group members do not meet any of the aforementioned alien statuses.

BEM 225 also allows FAP eligibility for legal immigrants with a class code other than RE, AM or AS who entered the United States after 8/22/96 if any of the following: person has 40 countable Social Security credits, age 65 or older as of 8/22/96 and was residing in United States on 8/22/96, Hmong or Laotian (with other requirements), received SSI on 8/22/96, currently blind, currently disabled or under 18 years of age. Again, Claimant and all FAP group members' circumstances do not fall into any of the above categories.

Each of the FAP group members lacks an alien status that would create eligibility for FAP. DHS correctly found the FAP group ineligible for FAP and correctly denied Claimant's application for FAP benefits.

The above analysis applies equally to an MA benefit analysis except that members that fail to meet the above citizenship or resident status requirements may be eligible for emergency services only MA coverage. It is found that DHS properly issued emergency services only MA to Claimant and his spouse.

The above analysis applies during the resident alien's first five year in the United States. It was not disputed that Claimant and his spouse entered the United States in 5/2011 so there is no exception for a residency of five years or longer.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department

properly denied Claimant's application       improperly denied Claimant's application  
 properly closed Claimant's case               improperly closed Claimant's case

for:     AMP    FIP    FAP    MA    SDA    CDC

and properly issued MA benefits (ESO) to Claimant and his spouse.

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department  did act properly.  did not act properly.

Accordingly, the Department's  AMP  FIP  FAP  MA  SDA  CDC decision is  AFFIRMED  REVERSED for the reasons stated on the record.

  
Christian Gardocki  
Administrative Law Judge  
for Maura Corrigan, Director  
Department of Human Services

Date Signed: November 4, 2011

Date Mailed: November 4, 2011

**NOTICE:** Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases)

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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
  - misapplication of manual policy or law in the hearing decision,
  - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
  - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at  
Michigan Administrative Hearings  
Reconsideration/Rehearing Request  
P. O. Box 30639  
Lansing, Michigan 48909-07322

CG/hw

cc:

