

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-51813
Issue No.: [REDACTED]
Case No.: 2005
Hearing Date: September 6 2011
County: Oakland (03)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

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 conducted from Detroit, Michigan on Thursday, September 6, 2012. The Claimant did not appear; however, the Authorized Hearing Representative ("AHR"), [REDACTED] appeared and testified on his behalf. Participating on behalf of the Department of Human Services ("Department") was [REDACTED].

ISSUE

Whether the Department properly approved the Claimant for Emergency Services Only ("ESO") under the Medical Assistance ("MA") benefit program?

Whether the Department properly denied the Claimant's spouse for MA benefits?

FINDINGS OF FACT

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

1. The Claimant applied for MA and cash assistance ("FIP") benefits on February 6, 2012. (Exhibit 1, pp. 1 – 17)
2. On February 16, 2012, the Department notified the Claimant that she was approved for ESO benefits but denied for FIP benefits. (Exhibit 2)
3. The Notice also provided that the Claimant's spouse was denied for FIP and MA benefits based on his immigration status. (Exhibit 2)

4. The Claimant and her spouse are permanent residents of the United States since April 2011. (Exhibit 3)
5. On April 30, 2012, the Department received the Claimant's timely written request for hearing.

CONCLUSIONS OF LAW

The Medical Assistance program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations. 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 contained in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Bridges Reference Tables ("RFT").

A person must be a U.S. citizen or have acceptable alien status in order to receive cash assistance. BEM 225 (2012), p. 1. Permanent resident alien is disqualified from FIP benefits for the first 5 years. BEM 225, p. 6.

U.S. citizenship must be verified for MA purposes. BEM 225, p. 6. To be eligible for full MA coverage, a person must be a U.S. citizen or an alien admitted to the U.S. under a specific immigration status (not applicable here). BEM 225, p. 2. Citizenship/alien status is not an eligibility factor for ESO MA benefits. BEM 225, p. 2. For MA purposes, an individual is limited to ESO for the first five years in the United States. BEM 225, p. 6.

In this case, the Claimant submitted an application on February 6, 2012 seeking FIP and MA benefits. The Claimant and her spouse became permanent residents of the U.S. in April 2011, thus have been residents less than 5 years. The Claimant (age 67), and her spouse (age 64), are disqualified from FIP benefits for the first 5 years. Similarly, for MA purposes, the Claimant is limited to ESO benefits for the first 5 years. On the application, there was no indication that the Claimant's spouse was disabled. Subsequently, the spouse asserted he was disabled, resulting in the Department further processing to determine eligibility based on disability. During the hearing, it was explained that even if the spouse is found disabled, the only MA program available is for ESO.

Ultimately, the Department established it acted in accordance with policy when it found the Claimant and her spouse were not eligible for FIP benefits and finding the Claimant eligible for ESO benefits only. Accordingly, the Department's actions are AFFIRMED.

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 acted in

accordance with Department policy when it found the Claimant ineligible for FIP benefits and eligible for ESO MA benefits.

Accordingly, the Department's determination is AFFIRMED.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: September 25, 2012

Date Mailed: September 25, 2012

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

CMM/cl

cc:

[REDACTED]

Oakland County DHS (03)

[REDACTED]

C.

Mamelka