

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-63133
Issue No.: [REDACTED]
Case No.: 2005, 3025, 4002
Hearing Date: October 3, 2012
County: Wayne (49)

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 Wednesday, October 3, 2012. The Claimant appeared and testified. Participating on behalf of the Department of Human Services ("Department") was [REDACTED] and [REDACTED].

ISSUE

Whether the Department properly denied the Claimant's application for public assistance seeking Medical Assistance ("MA"), State Disability Assistance ("SDA"), and food assistance ("FAP") 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, SDA, and FAP benefits on May 24, 2012.
2. In support of his immigration status, the Claimant submitted an Employment Authorization Card (I-766), Michigan identification card, and a Social Security issued for work purposes. (Exhibit 2)
3. On June 20, 2012, the Department denied the Claimant's request for benefits based on the failure to present proof of citizenship or acceptable immigration status. (Exhibit 3)

4. On June 25, 2012, the Department received the Claimant's timely written request for hearing, protesting the denial of SDA benefits.
5. On June 27, 2012, the Department received the Claimant's timely written request for hearing protesting the June 20th Notice of Case Action.
6. On September 19, 2012, the Department received another written request for hearing protesting the June 20th Notice of Case Action.

CONCLUSIONS OF LAW

As a preliminary matter, the Department received 3 hearing requests from the Claimant on June 25th, June 27th, and September 19, 2012. The hearing requests protest the June 20, 2012 denial of benefits. The Claimant stated that there has been no other action taken on by the Department besides the June 20th Notice of Case Action. During the hearing, Claimant agreed to withdraw the September 19th Request for Hearing. Subsequent to the hearing, the withdrawal was received. As such, the Department is not required to process the September 19th hearing request.

Department policies are contained in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Reference Tables ("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 Mich Admin Code, Rules 400.3101 through R 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 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 Mich Admin Code, Rules 400.3001 through R 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 of Human Services 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 Mich Admin Code, Rules 400.3151 through R 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 Mich Admin Code, Rules 400.5001 through R 400.5015.

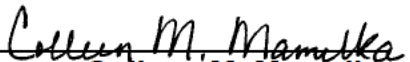
A person must be a U.S. citizen or have acceptable alien status in order to receive SDA and FAP assistance. BEM 225, (2012), p. 1. To be eligible for MA benefits, a person must be a U.S. citizen or an alien admitted to the U.S. under a specific immigration status. BEM 225, p. 2. Persons in Acceptable Status meet the requirement of citizenship/alien status. BEM 225, p. 2. Eligibility may be dependent on whether or not the person meets the definition of Qualified Alien. BEM 225, p. 2. Qualified alien includes specific statuses, but not all alien statuses. BEM 225, p. 2. Qualified alien means, in part, an alien who is a Cuban/Haitian entrant. BEM 225, p. 2. An I-94 indicating admission into the U.S. from Cuba or Haiti, annotated with “Cuban/Haitian entrant (Status Pending),” “parole,” “212(d)(5)” or Form I-589 Filed” or I-94 indicating admission into the U.S. from Cuba or Haiti and letter or notice from USCIS (U.S. Citizenship and Immigration Services) indicating ongoing (not final) deportation, exclusion, or removal proceedings, is necessary to establish a Cuban/Haitian entrant is a qualified alien. BEM 225, p. 23.

In this case, the Claimant submitted an application for public assistance seeking MA, SDA, and FAP benefits. In processing the case, the Department requested verification showing acceptable qualified alien status. In response, the Claimant submitted an Employment Authorization Document “EAD”, an I-766, a Michigan identification card, and a social security card issued for work purposes only. The Claimant is a Cuban entrant; however, in order to be considered a qualified alien, the I-94 is required. The USCIS has not issued an I-94 to the Claimant. In light of the foregoing, the Claimant can not be found to be a qualified alien eligible for benefits. In light of the foregoing, it is found that the Department established it acted in accordance with Department policy when it denied the Claimant’s May 24, 2012 application for MA, SDA, and FAP benefits. Accordingly, the Department’s determination is 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 MA, SDA, and FAP benefits based on his immigration status.

Accordingly, the Department's determination is AFFIRMED.


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

Date Signed: October 12, 2012

Date Mailed: October 12, 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/ctl

cc: 
Wayne County DHS (49)



C.  Mamelka