

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-10198
Issue No.: 2005
Case No.: [REDACTED]
Hearing Date: January 2, 2013
County: Oakland (02)

ADMINISTRATIVE LAW JUDGE: Jan Leventer

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 January 2, 2013, from Detroit, Michigan. Participants on behalf of Claimant included the Claimant and his immigration attorney, [REDACTED] P30978. Participants on behalf of the Department of Human Services (Department) included [REDACTED], Eligibility Specialist. Also present was [REDACTED], interpreter, Arab-Chaldean Council.

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 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 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 December 1, 2012, the Department
 denied Claimant's application closed Claimant's case
due to his status as an deportable immigrant whose deportation has been withheld
pending a determination of his current medical condition.
3. On November 8, 2012, the Department sent
 Claimant Claimant's Authorized Representative (AR)
notice of the denial. closure.
4. On November 1, 2012, Claimant filed a hearing request, protesting the
 denial of the application. closure of the case.

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 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.

Additionally, the following findings of fact and conclusions of law are entered in this case. The issue in this case is whether Claimant is entitled to Medical Assistance (Medicaid or MA) benefits. On January 22, 2008, the [REDACTED] Enforcement (ICE) unit of the [REDACTED] issued an Order of Supervision declaring Claimant to be a deportable alien, and permitting him to remain in the United State under certain specified conditions. Dept. Exh. 1, pp. 4-10. The ICE Order of Supervision remains in effect. It has not been revoked, nor has removal been ordered to occur.

The Department's policy applicable to this situation is Bridges Eligibility Manual (BEM) 225, "Citizenship/Alien Status." Department of Human Services Bridges Eligibility Manual (BEM) 225 (2012).

BEM 225 sets out the eligibility for immigrants of different status in a chart, "Exhibit II - Citizenship/Alien Status Table," found at pp. 25-27. Claimant's status is that he has been paroled under section 212(d)((5) for at least one year, he entered the U.S. after 8/22/1996, and he has been in the U.S. for more than five years. *Id.*, pp. 25-27; see *also* p. 27, line 12.

BEM 225 provides that a person in this status is entitled to full Medicaid benefits. *Id.*, p. 27, line 12, box 5. As Claimant has parole status according to BEM 225, it is found and determined that he is entitled to MA benefits.

In conclusion, 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.

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.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate Claimant's Medicaid benefits.
2. Initiate procedures to provide retroactive and ongoing MA benefits to Claimant at the benefit level to which he is entitled.
3. All steps shall be taken in accordance with Department policy and procedure.



Jan Leventer
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: January 7, 2013

Date Mailed: January 7, 2013

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

JL/tm

cc:

