

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

IN THE MATTER OF:



Reg. No.: 2013-4971
Issue No.: 2005
Case No.:
Hearing Date: January 9, 2013
County: Wayne (82-55)

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 9, 2013, from Detroit, Michigan. Participants on behalf of Claimant included

Participants on behalf of the Department of Human Services (Department) included .

ISSUE

Did the Department properly ☐ deny Claimant's application ☒ change Claimant's case to ESO 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 September 26, 2012, the Department
☐ denied Claimant's application ☒ changed Claimant's MA case to ESO
due to Claimant failing to meet alien status requirements.
3. On September 26, 2012, the Department sent
☒ Claimant ☐ Claimant's Authorized Representative (AR)
notice of the ☐ denial. ☒ change.
4. On October 10, 2012, Claimant filed a hearing request, protesting the
☐ denial of the application. ☒ change in 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 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.

A person must be a U.S. citizen or have an acceptable alien status for the designated programs. BEM 225, p. 1 (2012).

There are several acceptable alien statuses for the purposes of the MA program, including refugee and asylum status, among others. However, if a claimant does not meet those statuses, the claimant must be a person who has lived in the U.S. as a qualified alien with an acceptable residency code for at least five years since their date of entry in order to be eligible for full MA benefits. BEM 225. Otherwise, a claimant is only eligible for ESO services. All resident aliens must be qualified aliens in order to be eligible for benefits; however, not all qualified aliens have the appropriate alien status necessary to be eligible for benefits. BEM 225. Generally speaking, a qualified alien is a resident who has been legally admitted into the United States. BEM 225.

Claimant entered the country in [REDACTED]. There is no dispute as to Claimant's legal status; Claimant possesses a legal permanent residency card and is a legal resident of the United States. However, this status only speaks to whether Claimant is a qualified alien. Not all qualified aliens are eligible for full MA benefits. BEM 225.

In order to be eligible for full MA benefits, a qualified alien must also have an acceptable residence status. These acceptable statuses include, among other things, being a qualified military alien, a holder of immigration status RE or AS, and certain refugees and asylum seekers. After an examination of Claimant's alien status, the undersigned has concluded that Claimant does not appear to meet any of the acceptable alien statuses. Per testimony, Claimant does not appear to be in a circumstance that would lead to an RE or AS code. While Claimant does have a status that makes her eligible for MA, this status states that Claimant is only eligible for ESO MA for the first five years of residency. Therefore, the policy contained in BEM 225 directs an examination of the length of time a claimant has been a resident of the United States; in order to be eligible for benefits, a qualified alien must have resided in the country for at least five years.

Claimant legally entered the country in [REDACTED]. This does not meet the five-year requirement. Therefore, Claimant is not legally entitled to benefits, and the decision of the Department must be affirmed, because claimant does not meet the alien status requirement.

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

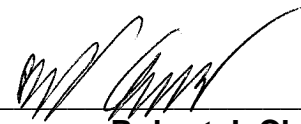
☐ properly denied Claimant's application ☐ improperly denied Claimant's application
☒ properly changed Claimant's case ☐ improperly closed Claimant's case

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.



Robert J. Chavez
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 5, 2013

Date Mailed: February 5, 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

2013-4971/RJC

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

RJC/pf

cc:

