

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-52105
Issue No.: 1022, 3025
Case No.: [REDACTED]
Hearing Date: July 10, 2013
County: Oakland DHS (02)

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 July 10, 2013, from Detroit, Michigan. Participants included the above-named Claimant. [REDACTED] appeared via telephone and testified on behalf of Claimant. Participants on behalf of the Department of Human Services (DHS) included [REDACTED], Specialist.

ISSUE

The issue is whether DHS properly denied Claimant's application for Family Independence Program (FIP) and Food Assistance Program (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. On an unspecified date, Claimant applied for FAP and FIP benefits.
2. Claimant was the only potential member of the FAP and FIP benefit group.
3. Claimant was a non-citizen with a category IR1 who entered the United States in 11/2009.
4. DHS determined that Claimant was ineligible for FAP and FIP benefits because of her alien status.

5. On 4/17/13, DHS denied Claimant's application for FAP and FIP benefits because of a lack of eligible group members.
6. On 6/5/13, Claimant requested a hearing to dispute the FAP and FIP application denials.

CONCLUSIONS OF LAW

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 Mich Admin Code, R 400.3001 through R 400.3015. DHS regulations are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

Claimant requested a hearing, in part, to dispute a FAP application denial. It was not disputed that the denial was based on Claimant's FAP ineligibility due to alien status.

A person must be a U.S. citizen or have an acceptable alien status for the designated programs. BEM 225 (1/2012), p. 1. Any of the following persons are considered to have an acceptable alien status:

- United States citizens (includes those born in Puerto Rico)
- 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 under Section 207
- asylee under Section 208
- Cuban/Haitian entrant
- Amerasian
- victim of trafficking
- permanent resident alien with class code of RE, AS, SI or SQ
- permanent resident alien and has I-151
- deportation withheld (under certain conditions)
- granted conditional entry under 203(a)(7)
- paroled under 212(d)(5) for at least one year (under certain conditions)
- battered aliens, if more than five years in the United States
- permanent resident alien with a class code other than RE, AM or AS, if in the United States for longer than 5 years

Id. 26-28.

Persons with a class code other than RE, AM or AS who entered the United States after 8/22/96 may be eligible for FAP benefits if any of the following circumstance are applicable:

- 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
- under 18 years of age

Id., p. 27.

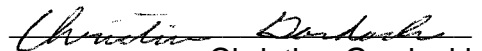
The only eligible alien status potentially applicable to Claimant would be based on her visa category or her time in the United States. It was verified that Claimant's residency category was IR1 (see Exhibit 1); this category does not qualify her for an acceptable alien status for purposes of FAP eligibility. It was not disputed that DHS denied Claimant's application while Claimant was within her first five years in the United States. Accordingly, Claimant does not qualify for an alien status which would qualify her for FAP eligibility. As Claimant was the only potential FAP member, it is found that DHS properly denied Claimant's application for FAP benefits.

The Family Independence Program (FIP) is a block grant that was established by the Social Security Act. Public Act (P.A.) 223 of 1995 amended P.A. 280 of 1939 and provides a state legal base for FIP. FIP policies are also authorized by the Code of Federal Regulations (CFR), Michigan Compiled Laws (MCL), Michigan Administrative Code (MAC), and federal court orders. Amendments to the Social Security Act by the U.S. Congress affect the administration and scope of the FIP program. The U.S. Department of Health and Human Services (HHS) administers the Social Security Act. Within HHS, the Administration for Children and Families has specific responsibility for the administration of the FIP program. DHS policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

DHS also denied Claimant's application for FIP benefits based on Claimant's lack of eligible alien status. The above analysis applies equally to the denial of Claimant's FIP benefit application. It is found that DHS properly denied Claimant's application for FIP benefits due to Claimant's alien status.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly denied Claimant's FAP and FIP application tied to a DHS Notice of Case Action from 4/17/13. The actions taken by DHS are AFFIRMED.


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

Date Signed: 7/19/2013

Date Mailed: 7/19/2013

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 affect the substantial rights of the claimant,
 - 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:

