

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-66101
Issue Nos.: 2000, 3025
Case No.: [REDACTED]
Hearing Date: October 23, 2013
County: SSPC-East (97-98)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on October 23, 2013, from Detroit, Michigan. Participants on behalf of Claimant included Claimant; [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] [REDACTED] [REDACTED] [REDACTED] [REDACTED]

ISSUE

Did the Department properly deny Claimant's application for 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 July 30, 2013, Claimant applied for FAP and Medical Assistance (MA) benefits for herself, her husband, and their four children, ages 22, 21, 15, and 10.
2. Claimant and all the household members are permanent residents who entered the United States on [REDACTED]
3. On August 27, 2013, the Department sent Claimant a Notice of Case Action that, in part, denied the group's FAP application.

4. On August 30, 2013, Claimant filed a request for hearing concerning the FAP and MA application.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food Stamp Act of 1977, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 271.1 to 285.5. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10 and Mich Admin Code, R 400.3001 to .3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

Additionally, Claimant requested a hearing concerning the Department's decision on her July 30, 2013, FAP and MA application. At the hearing, Claimant explained that, although she had initially received a Notice of Case Action denying the MA application, she subsequently received a Notice of Case Action approving her and her husband for emergency services only coverage. Because she was satisfied with the Department's action, she agreed to dismiss her hearing request concerning the MA issue. The hearing proceeded to address the FAP denial.

In the August 27, 2013, Notice of Case Action, the Department explained Claimant's FAP application was denied because none of the household members was an eligible alien.

To receive FAP benefits, a person must be a U.S. citizen or have an acceptable alien status, and individuals who do not meet this requirement are disqualified from FAP eligibility. BEM 225 (July 2013), p. 1. Acceptable alien status includes individuals who are permanent resident aliens and meet one of the following criteria: (i) have been in the U.S. for five years, (ii) meet the Social Security Credits (SSC) requirements, (iii) have permanent residency cards (I-551) with a class code of RE, AS, SI, AM or SQ, or (iv) are under 18 years of age. BEM 225, pp. 3, 5-6, 8, 9.

In this case, both parties acknowledged that Claimant had provided permanent residency cards for each of the six household members to the Department showing a [REDACTED], date of entry into the United States from [REDACTED]. Therefore, no one in the group had resided in the United States for at least five years. The Department

testified that the group's permanency residency cards did not show any qualifying class code of RE, AS, SI, AM or SQ; Claimant and her husband admitted that they did not come into the United States as refugees, under asylum, or under any other special or unusual circumstances. Although the parties indicated that they were working, there was no evidence that they had earned at least 40 countable SSCs necessary to be eligible for FAP benefits and, considering that an individual may earn only a maximum of 4 SSCs per year, Claimant's group was not eligible under the SSC eligibility criteria. See BEM 225, pp. 12-13. Because Claimant, her husband and their 21 and 22 year old children did not meet any of the criteria for acceptable alien status, none of them were eligible FAP members. However, the two minor children, ages 10 and 15, as permanent residents under the age of 18, do meet acceptable alien status for FAP eligibility. Thus, the Department did not act in accordance with Department policy when it failed to approve Claimant's FAP application for the two children.

DECISION AND ORDER

Accordingly, the Department's decision is REVERSED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reregister the July 30, 2013, FAP application;
2. Reprocess the application;
3. Issue supplements to Claimant for FAP benefits, if any, the group is eligible to receive from July 30, 2013, ongoing; and
4. Notify Claimant in writing of its decision.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: October 28, 2013

Date Mailed: October 29, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

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

ACE/pf

cc:

