

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2013-17000
Issue No.: 2024
Case No.: [REDACTED]
Hearing Date: [REDACTED]
County: Macomb DHS (36)

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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 [REDACTED], from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] as authorized hearings representative. Participants on behalf of Department of Human Services (Department) included [REDACTED]

ISSUE

Whether the Department of Human Services (Department) properly denied the Claimant's application for Medical Assistance (MA) for lack of residency?

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material and substantial evidence on the whole record, finds as material fact:

1. The Claimant applied for Medical Assistance (MA) on [REDACTED], with a request for retroactive coverage through [REDACTED].
2. The Claimant indicated intent to remain a Michigan resident indefinitely on her application for benefits.
3. The Claimant was issued a non-immigrant visa on [REDACTED], with an expiration date of [REDACTED].
4. On [REDACTED], the Department notified the Claimant that it had denied her application for Medical Assistance (MA) and retroactive coverage.

5. The Department received the Claimant's request for a hearing on [REDACTED], protesting the denial of her Medical Assistance (MA) application.

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by 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 (DHS or Department) administers the MA program pursuant to MCL 400.10, et seq., and MCL 400.105. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

A person must be a Michigan resident to be eligible to receive benefits issued by the Department. Department of Human Services Bridges Eligibility Manual (BEM) 220 (March 1, 2013), p 1.

A person is a Michigan resident if all of the following apply:

- Is not receiving assistance from another state.
- Is living in Michigan, except for a temporary absence.
- Intends to remain in the state permanently or indefinitely. BEM 220, p 1.

For the purposes of receiving Medical Assistance (MA), an individual is a Michigan resident if either of the following apply:

- The individual lives in Michigan, except for a temporary absence, and intends to remain in the Michigan permanently or indefinitely.
- The individual or a member of the MA fiscal group entered the state of Michigan for employment purposes and has a job commitment or is seeking employment. BEM 220, pp 1-2.

The Department will accept an individual's statement of intent to remain in Michigan unless the statement is inconsistent or conflicts with known facts. For Medical Assistance (MA), if an individual indicates intent to remain in Michigan, but the individual's official USCIS documents indicate a temporary or time-limited period to the visit, the individual does not meet the intent to remain requirements, unless the individual verifies that official steps are being taken with USCIS to apply for lawful permanent resident status. BEM 220, p 5.

In this case, the Claimant applied for Medical Assistance (MA) on [REDACTED], with a request for retroactive coverage through [REDACTED]. The Claimant indicated intent to remain a Michigan resident indefinitely on her application for benefits.

The Claimant was issued a non-immigrant visa on [REDACTED], with an expiration date of [REDACTED].

On [REDACTED] the Department notified the Claimant that it had denied her application for Medical Assistance (MA) and retroactive coverage.

Although, the Claimant indicated intent to remain a Michigan resident; this Administrative Law Judge finds that this declaration of intent is inconsistent with other facts reported by the Claimant. The Claimant failed to establish that she has applied for permanent resident alien status with the USCIS. Since the Claimant entered the United States on a non-immigrant visa with an expiration date, this Administrative Law Judge finds that the Claimant has failed to establish intent to remain in Michigan making her ineligible to receive Medical Assistance (MA) benefits issued by the state of Michigan.

Therefore, the Department was acting in accordance with policy when it denied the Claimant's Medical Assistance (MA) application for lack of residency.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department properly determined that the Claimant is not a Michigan resident and is not eligible for Medical Assistance (MA).

The Department's Medical Assistance (MA) eligibility determination is **AFFIRMED**.

/S/
Kevin Scully
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 05/14/2013

Date Mailed: 05/14/2013

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

KS/kl

cc:

