

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

**IN THE MATTER OF:**

[REDACTED]

Reg. No: 201333649  
Issue No: 2001, 3025  
Case No: [REDACTED]  
Hearing Date: April 4, 2013  
Eaton County DHS

**ADMINISTRATIVE LAW JUDGE:** Suzanne D. Sonneborn

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon Claimant's request for a hearing received by the Department of Human Services (department) on March 4, 2013. After due notice, a telephone hearing was held on April 4, 2013. Claimant appeared and provided testimony and Claimant's daughter, [REDACTED], also appeared and provided testimony on Claimant's behalf. The department was represented by [REDACTED], an eligibility specialist with the department's Eaton County office.

**ISSUE**

Whether the department properly determined Claimant's eligibility for Food Assistance Program (FAP) benefits and Medical Assistance (MA) benefits?

**FINDINGS OF FACT**

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

1. On February 5, 2013, Claimant applied for FAP and MA benefits. In her application, Claimant indicated that she is not a U.S. citizen but failed to indicate whether she is a documented alien and, if so, her date of entry into the country. Claimant also indicated in her application that she is not disabled. (Department Exhibit 1)
2. On February 25, 2013, the department mailed Claimant a Notice of Case Action (DHS 1605) advising her that her application for FAP benefits had been denied because she or a group member is not a citizen or eligible alien or has not provided proof of citizenship or immigration status. The department further advised Claimant that her application for MA benefits

had been denied because the Adult Medical Program (the only program for which Claimant would have qualified since she is not aged, blind, or disabled) was closed to new enrollments at this time.

3. On March 4, 2013, the department received Claimant's hearing request, protesting the department's denial of her application for FAP and MA benefits.

### **CONCLUSIONS OF LAW**

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because her claim for assistance has been denied. MAC R 400.903(1). Clients have the right to contest a department decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness of that decision. BAM 600.

The Food Assistance Program (FAP) was established pursuant to 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 administers the FAP program pursuant to MCL 400.10, *et seq.*, and MAC R 400.30001-3015. Department policies for the program are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), the Bridges Reference Manual (BRM), and the Reference Tables Manual (RFT).

The Adult Medical Program (AMP) was established by Title XXI of the Social Security Act; (1115)(a)(1) of the Social Security Act, and is administered by the Department of Human Services (DHS or department) pursuant to MCL 400.10, *et seq.* Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), the Bridges Reference Manual (BRM), and the Reference Tables Manual (RFT). Applications received during a freeze on AMP enrollments must be registered and denied. BEM 640.

To be eligible FAP benefits, a person must be a U.S. citizen or have an acceptable alien status. BEM 225. Persons who do not meet this requirement, or who refuse to indicate their status, are disqualified. Non-immigrants (for example, students, tourists) and undocumented non-citizens are **not** eligible. A non-immigrant temporarily enters the U.S. for a specific purpose such as business, study, temporary employment, or pleasure. When a person is admitted to the United States a USCIS official will assign a non-immigrant category according to the purpose of the visit.

To be eligible for full MA coverage a person must be a U.S. citizen or an alien admitted to the U.S. under a specific immigration status. BEM 225. Citizenship/alien status is not

an eligibility factor for emergency services only (ESO) MA. However, the person must meet all other eligibility factors, including residency. BEM 225. BEM 220.

In this case, the department processed Claimant's February 5, 2013 assistance application and based on the information provided therein by Claimant, the department determined that Claimant was not eligible for FAP benefits because she stated that her status in the United States was as an undocumented alien. The department further determined that Claimant was not eligible for the Adult Medical Program (the only program for which Claimant would have qualified since she is not aged, blind, or disabled) because the AMP is not currently open to new enrollees.

At the April 4, 2013 hearing, Claimant testified that she has been in this country and in Michigan since November 7, 2006 and that she has a green card issued by U.S. Immigration and Naturalization Services indicating her status as category F-41. In response to her testimony, the department representative acknowledged that there may have been a language barrier issue that precluded the department from properly ascertaining Claimant's documented alien status. Consequently, the department representative acknowledged that Claimant's application for FAP benefits was improperly denied. With respect to Claimant's eligibility for MA benefits, the department representative testified that while the Adult Medical Program was closed to new enrollments at the time of Claimant's application, it has since been reopened to new enrollments effective April 1, 2013 and Claimant was therefore encouraged to reapply for that program.

Accordingly, the Administrative Law Judge finds that, based on the material and substantial evidence presented during the hearing, the department did not act in accordance with policy in denying Claimant's February 5, 2013 application for FAP benefits. The Administrative Law Judge further finds that the department acted in accordance with policy in denying Claimant's February 5, 2013 application for MA benefits.

**DECISION AND ORDER**

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department acted in accordance with policy in denying Claimant's February 5, 2013 application for MA benefits and the department's actions in this regard are **UPHELD**.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, further decides that the department did not act in accordance with policy in denying Claimant's February 5, 2013 application for FAP benefits. The department's actions in this regard are therefore **REVERSED** and the department shall immediately and the department shall immediately reinstate and reprocess Claimant's February 5, 2013 application for FAP benefits and issue supplement checks for any months she did not receive the correct amount of benefits if she was otherwise entitled to them.

It is **SO ORDERED**.

/s/ \_\_\_\_\_  
Suzanne D. Sonneborn  
Administrative Law Judge  
for Maura D. Corrigan, Director  
Department of Human Services

Date Signed: April 8, 2013

Date Mailed: April 8, 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.

The Claimant may appeal this 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,

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- Typographical errors, mathematical errors, or other obvious errors in the hearing decision that affect the substantial rights of Claimant;
- The failure of the ALJ to address other relevant issues in the hearing decision.

A request for a rehearing or reconsideration must be submitted through the local DHS office or directly to MAHS by mail at:

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

SDS/cr

cc:

