

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2013-34247
Issue No: 2005
Case No: [REDACTED]
Hearing Date: August 22, 2013
Ingham County DHS

ADMINISTRATIVE LAW JUDGE: Corey A. Arendt

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 August 22, 2013, in Lansing, Michigan. Participants on behalf of Claimant included [REDACTED] and [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Whether the Department properly determined the Claimant's eligibility for Medical Assistance (MA) benefits due to Claimant's resident alien status.

FINDINGS OF FACT

I find as material fact, based upon the competent, material, and substantial evidence on the whole record:

1. On August 28, 2012, the Claimant and his spouse were visiting the United States from China on a J-1 and J-2 visa.
2. On August 28, 2012 while visiting the United States, the Claimant and his spouse had a child.
3. On November 28, 2012, the Claimant applied for MA for his child born in the United States on August 28, 2012.
4. On January 7, 2013, the Department denied the Claimant's application citing the Claimant's residency status. Specifically the Department determined the Claimant was not a resident of Michigan based upon his and his spouses' visa status.

5. As of November 28, 2012, the Claimant was working at Michigan State University as a Research Associate. The Claimant worked 40 hours a week.
6. On February 26, 2013, the Claimant requested a hearing in dispute of the MA application denial.

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 his claim for assistance is 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 Medical Assistance (MA) program was established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The department administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. The goal of the Medicaid program is to ensure that essential health care services are made available to those who otherwise could not afford them. Medicaid is also known as Medical Assistance (MA).

For all programs, the Department must determine the Claimant's eligibility by determining the Claimant's residency. If the Claimant is not a resident of the State of Michigan then the Claimant's family is not eligible for MA in the state of Michigan. (BEM 220).

The Department in this case properly indicated the Claimant was not a Michigan resident and could not claim intent to remain in Michigan based upon the Claimant's visa status. However, the Department missed the second part of the applicable policy in BEM 220.

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 Michigan permanently or indefinitely. If the individual indicates an intent to remain in Michigan, but his or her official USCIS documents indicate a **temporary or time-limited period** to the visit, the individual does **not** meet the intent to remain requirements, unless he verifies that official steps are being taken with USCIS to apply for lawful permanent resident status
- The individual or a member of the MA fiscal group has entered the state of Michigan for employment purposes, and

- Has a job commitment, or
- Is seeking employment.

Although the Claimant does not meet the residency requirement under the first prong, the Claimant might meet it under the second. The Department did not offer any testimony or exhibits to show how the Claimant did not meet the second prong. Based upon my examination of the Claimant's application, I find the Claimant is currently living in the State of Michigan and working at Michigan State University.

Since the second part of the residency exception was not addressed by the Department, I do not know if it was properly vetted at the application stage and therefore am reversing the Department in this matter.

DECISION AND ORDER

I find, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, find the Department did not act properly.

Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Initiate a redetermination of the Claimant's eligibility for MA beginning November 28, 2012 and issue retroactive benefits if otherwise qualified and eligible.



Corey A. Arendt
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: August 26, 2013

Date Mailed: August 26, 2013

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

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

CAA/las

cc:

