

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

IN THE MATTER OF:



Reg. No.: 2013-65967
Issue No.: 2005, 4020
Case No.:
Hearing Date: October 28, 2013
County: Wayne (55)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 28, 2013, from Detroit, Michigan. Participants included the above-named Claimant. appeared as a translator for Claimant. Participants on behalf of the Department of Human Services (DHS) included , Specialist.

ISSUES

The first issue is whether DHS properly denied Claimant's application for State Disability Assistance (SDA) due to Claimant's alien status.

The second issue is whether DHS properly determined Claimant to be eligible for Medicaid (emergency services only) based on Claimant's alien status.

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 /13, Claimant applied for SDA.
2. On an unspecified date, Claimant applied for MA benefits.
3. Claimant is an alien with a date of U.S. entry of /10.

4. On an unspecified date, DHS determined that Claimant was eligible for Medicaid (emergency services only).
5. On [REDACTED]/13, DHS determined that Claimant was ineligible for SDA due to Claimant's alien status.
6. On [REDACTED]/13, Claimant requested a hearing to dispute SDA, MA, Food Assistance Program (FAP) and State Emergency Relief (SER) determinations.
7. Claimant testified that he does not have a dispute concerning SER or FAP eligibility.

CONCLUSIONS OF LAW

The State Disability Assistance (SDA) program is established by the Social Welfare Act, MCL 400.1-.119b. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10 and Mich Admin Code, R 400.3151-.3180. Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM) and Department of Human Services Bridges Eligibility Manual (BEM) and Department of Human Services Reference Tables Manual (RFT).

Prior to a substantive analysis, it should be noted that Claimant's hearing request listed that he had an authorized hearing representative (AHR). The AHR did not appear for the hearing. Claimant testified that he did not expect the AHR to appear. Claimant waived his right to representation and the hearing proceeded in the absence of the AHR.

Claimant requested a hearing to dispute a denial of SDA. DHS presented testimony that the application was denied due to Claimant's failure to meet required citizenship/alien status requirements.

For SDA benefits, a person must be a U.S. citizen or have an acceptable alien status for the designated programs. BEM 245 (7/2013), p. 1. For all programs, 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)
- aliens battered by U.S. citizen within U.S.

For SDA benefits, qualified alien status can also be met for aliens admitted into the U.S. with a class code on the I-551 other than RE, AM or AS. *Id.*, p. 7. For such aliens, the eligibility of an alien admitted into the U.S. on or after 8/22/96 is disqualified from SDA benefits unless the alien is a qualified military alien or the spouse or dependent child of a qualified military alien. *Id.*

Claimant's I-551 class code (IR5) and United States date of entry (6/23/10) makes Claimant disqualified for SDA benefits. No evidence was presented to suggest that Claimant met an acceptable alien status. Accordingly, the SDA denial of Claimant's application was proper.

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

Claimant also requested a hearing to dispute an MA benefit determination limiting Claimant to Medicaid for emergency services only (ESO). It was not disputed that the determination was based on Claimant's alien status.

Citizenship/alien status is not an eligibility factor for emergency services only (ESO) MA. *Id.*, p. 2. 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. *Id.*

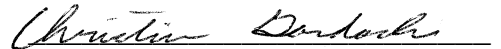
For MA benefits, qualified alien status can also be met for aliens admitted into the U.S. with a class code on the I-551 other than RE, AM or AS. *Id.*, p. 7. For such aliens, MA eligibility is limited to emergency services only for the first five years in the United States. *Id.*, p. 8.

It was not disputed that Claimant only potential basis for meeting the citizenship requirements for MA benefits was based on a class code other than RE, AM or AS. It was not disputed that Claimant requested MA benefits within his first five years in the United States. Accordingly, the emergency services only restriction to Claimant's MA benefit eligibility was proper.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that Claimant withdrew his hearing request for SER and FAP eligibility. Claimant's hearing request is **PARTIALLY DISMISSED**.

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly restricted Claimant's MA benefit eligibility to emergency services only. It is also found that DHS properly denied Claimant's SDA benefit application. The actions taken by DHS are **AFFIRMED**.


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

Date Signed: 11/20/2013

Date Mailed: 11/20/2013

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

2013-65967/CG

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

CG/hw

cc:

