

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201420993
Issue No(s): 2007; 3007
Case No.: [REDACTED]
Hearing Date: January 30, 2014
County: Wayne (55)

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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 January 30, 2014, from Detroit, Michigan. Participants on behalf of Claimant included [REDACTED] and [REDACTED], his interpreter. Participants on behalf of the Department of Human Services (Department) included [REDACTED], ES..

ISSUE

Did the Department properly deny Claimant's application close Claimant's case for:

- | | |
|--|---|
| <input type="checkbox"/> Family Independence Program (FIP)? | <input type="checkbox"/> State Disability Assistance (SDA)? |
| <input checked="" type="checkbox"/> Food Assistance Program (FAP)? | <input type="checkbox"/> Child Development and Care (CDC)? |
| <input checked="" type="checkbox"/> Medical Assistance (MA)? | <input type="checkbox"/> Direct Support Services (DSS)? |
| <input type="checkbox"/> Adult Medical Assistance (AMP)? | <input type="checkbox"/> State SSI Payments (SSP)? |

FINDINGS OF FACT

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

1. Claimant applied for received:
 FIP FAP MA AMP SDA CDC DSS SSP benefits.
2. On [REDACTED], the Department denied Claimant's application closed Claimant's case

due to failing to meet alien status requirements.

3. On [REDACTED], the Department sent Claimant/Claimant's Authorized Representative (AR) its decision.
4. On [REDACTED], Claimant/Claimant's Authorized Hearing Representative (AHR) filed a hearing request, protesting the Department's actions.

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), and Department of Human Services Reference Tables Manual (RFT).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10 and 400.57a and Mich Admin Code, R 400.3101 to .3131.

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.

The Adult Medical Program (AMP) is established by 42 USC 1315 and is administered by the Department pursuant to MCL 400.10.

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.

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

Direct Support Services (DSS) is established by the Social Welfare Act, MCL 400.1-.119b. The program is administered by the Department pursuant to MCL 400.10 and 400.57a and Mich Admin Code R 400.3603.

The State SSI Payments (SSP) program is established by 20 CFR 416.2001-.2099 and the Social Security Act, 42 USC 1382e. The Department administers the program pursuant to MCL 400.10.

Additionally, a person must be a U.S. citizen or have an acceptable alien status for the designated programs. BEM 225, pg. 1 (2012).

There are several acceptable alien statuses for the purposes of the MA and FAP program, including refugee and asylum status, among others. However, if a claimant does not meet those statuses, the claimant must be a person who has lived in the U.S. as a qualified alien with an acceptable residency code for at least five years since their date of entry in order to be eligible for FAP and full MA benefits. BEM 225. Otherwise, a claimant is only eligible for ESO MA services and is ineligible for FAP. All resident aliens must be qualified aliens in order to be eligible for benefits; however not all qualified aliens have the appropriate alien status necessary to be eligible for benefits. BEM 225. Generally speaking, a qualified alien is a resident who has been legally admitted into the United States. BEM 225.

Claimant entered the country on [REDACTED]. There is no dispute as to claimant's legal status; claimant possesses a legal permanent residence card, and is a legal resident of the United States. However, this status only speaks to whether claimant is a qualified alien. Not all qualified aliens are eligible for full MA and FAP benefits. BEM 225.

In order to be eligible for FAP and full MA benefits, a qualified alien must also have an acceptable residence status. These acceptable statuses, include, among other things, being a qualified military alien, a holder of immigration status RE or AS, and certain refugees and asylum seekers. After an examination of claimant's alien status, the undersigned has concluded that claimant does not meet any of the acceptable alien statuses. While claimant does have a status that makes them eligible for MA, this status states that claimant is only eligible for ESO MA for the first 5 years of residency. Therefore, the policy contained in BEM 225 directs an examination of the length of time claimant has been a resident of the United States; in order to be eligible for benefits, a qualified alien must have resided in the country for at least 5 years.

Claimant legally entered the country on [REDACTED]. This does not meet the 5 year requirement. Therefore, claimant is not legally entitled to benefits, and the decision of the Department must be affirmed, because claimant does not meet the alien status requirement..

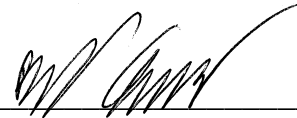
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department

- acted in accordance with Department policy when it denied claimant's FAP application and limited claimant's MA benefits.
 did not act in accordance with Department policy when it .
 failed to satisfy its burden of showing that it acted in accordance with Department policy when it .

DECISION AND ORDER

Accordingly, the Department's decision is

- AFFIRMED.
 REVERSED.
 AFFIRMED IN PART with respect to _____ and REVERSED IN PART with respect to _____ .
 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:



Robert J. Chavez
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 2/12/2014

Date Mailed: 2/12/2014

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.

201420993/RJC

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

RJC/hw

cc:

