

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

**IN THE MATTER OF:**

██████████  
██████████  
██

Reg. No.: 15-003362  
Issue No.: 3001  
Case No.: ██████████  
Hearing Date: April 06, 2015  
County: MACOMB-DISTRICT 36  
(STERLING HTS)

**ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris**

**DECISION AND ORDER**

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 April 6, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Human Services (Department) included ██████ ██████, Hearing Facilitator.

**ISSUE**

Did the Department properly deny Claimant's application for Food Assistance Program (FAP) benefits?

**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 January 30, 2015, Claimant submitted an application for FAP benefits.
2. On February 3, 2015 after a telephone intake interview the Department sent the Claimant a Verification Checklist and Quick Note requesting any and all types of documents he had in regards to his current citizenship status. Exhibit 4.
3. On February 6, 2015 an I-765 Application for Employment Authorization and a Department of Homeland Security Order of Supervision were provided by Claimant to the Department in response to the verification request.
4. The Department sent a Notice of Case Action on February 20, 2015 denying the Claimant's FAP application due to not meeting the citizenship/alien requirement per BEM 225 due to failure to provide proof of citizenship or immigration status. Exhibit 7.

5. The Claimant requested a hearing on February 27, 2015 protesting the FAP denial,

### **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), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

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 273. The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001 to .3015.

Additionally, to receive FAP benefits, a person must be a U.S. citizen or have an acceptable alien status. Individuals who do not meet this requirement are disqualified from FAP eligibility. BEM 225 (October 2014), p 1; BEM 212 (July 2014), p.8. Acceptable alien status includes individuals who are permanent resident aliens and meet one of the following criteria: (i) have been in the U.S. for five years; (ii) meet the Social Security Credits (SSC) requirements; (iii) if not in the U.S. for five years, have permanent residency cards (I-551) with a class code of RE, AS, SI, AM or SQ; (iv) are under 18 years of age; or (v) are lawfully residing in the U.S. and disabled. BEM 225, pp.3-6, 8-11.

The Claimant is from [REDACTED]. The Claimant is not a U.S. citizen and is currently applying for alien status but was unable to present any status information establishing his status at the time of the verification request and his response. Prior to the application, the Claimant testified that he had been incarcerated for 10 years. No parole or probation records were provided to the Department.

BEM 225 provides various documents that will qualify to establish alien status, it provides:

#### **All Programs**

See EXHIBIT III in this item for document titles and descriptions.

- Permanent resident alien status is indicated on one of the following:
  - I-151 issued before June 1978 or I-551.
  - I-327 (unexpired).
  - I-94 stamped "Processed for I-551."

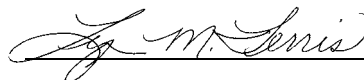
- Passport stamped "Processed for I-551 Temporary Evidence of Lawful Admission for Permanent Residence."
- Parolee
- I-94 annotated with INA section 212(d)(5) which has a parole end date (duration) at least one year later than the date of entry.
  
- [REDACTED] aliens admitted under Section 101(a)(27) of the INA is indicated on either:
  - Passport with category SI or SQ.
  - An I-94 with date of entry.
  - I-551 with an IV code of SI or SQ.
  - Status as an alien whose deportation (removal) is withheld is indicated on a court order or letter from an immigration judge stating that deportation (removal) is withheld per INA section 241(b)(3) or 243(h) BEM 225 (October 1, 2014) p. 27-29.

The Claimant testified that he had not been deported due to current ongoing conflicts in Iraq and had applied for alien status. The only information that was provided was an I-765 application for employment completed by the Claimant and noted date of entry of [REDACTED] and a Department of Homeland Security Order of Supervision. Exhibit 5. Because the Claimant has no status that affords him eligibility and the paperwork submitted did not establish his status, there was nothing provided which would allow the Department to determine eligibility. Thus based upon the evidence presented, the Department must be affirmed. The Claimant may reapply when he obtains some status documentation.

The Administrative Law Judge, based on 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 the Claimant's Food Assistance application as ineligible based upon lack of alien status or citizenship.

### **DECISION AND ORDER**

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



**Lynn M. Ferris**  
Administrative Law Judge  
for Nick Lyon, Interim Director  
Department of Human Services

Date Signed: **4/10/2015**

Date Mailed: **4/10/2015**

LMF / cl

**NOTICE OF APPEAL:** A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS **MAY** order a rehearing or reconsideration on its own motion.

MAHS **MAY** grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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 48909-8139

CC:

[REDACTED]