

**Date Mailed:** January 29, 2026

**Docket No.:** 25-048152

**Case No.:** [REDACTED]

**Petitioner:** [REDACTED]

### **HEARING DECISION**

Following Petitioner'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; and Mich Admin Code, R 792.11002. After due notice, a hearing was held via telephone conference on January 21, 2026. Petitioner appeared and was unrepresented. [REDACTED] Shelter Case Coordinator, appeared as a witness for Petitioner. The Michigan Department of Health and Human Services (MDHHS or Department) was represented by Richard Merrill, Assistance Payments Supervisor (APS). Interpreter number 8483, Linguistica, provided interpretation services.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-31.

### **ISSUE**

Did the Department properly determine Petitioner's eligibility for Medical Assistance (MA) and 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 September 15, 2025, a Notice of Case Action was issued to Petitioner denying FAP benefits based on Petitioner not being a citizen, not being an eligible alien, or not providing proof of citizenship/immigration status. (Exhibit A, pp. 7-8)
2. On [REDACTED] 2025, Petitioner applied for MA and FAP benefits. Petitioner reported she was not a US National/Citizen, she had an I-551 Permanent Resident Card, and her date of US entry was January 28, 2025. Petitioner reported she was living in a domestic violence shelter. (Exhibit A, pp. 10-17)
3. Petitioner's Permanent Resident card shows she has been a resident since January 28, 2025. (Exhibit A, p. 30)
4. On November 5, 2025, a Notice of Case Action was issued to Petitioner indicating FAP benefits were denied because she has been in the US for less than five years. (Exhibit A, pp. 18-22)

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5. On November 5, 2025, a Health Care Coverage Determination Notice was issued to Petitioner indicating she was approved for Emergency Services only Medicaid (MA-ESO) because she is a battered alien that has been in the US for less than five years. (Exhibit A, pp. 3 and 23-25)
  6. On December 15, 2025, Petitioner submitted a hearing request contesting the Department's determination. (Exhibit A, pp. 4-8)

### **CONCLUSIONS OF LAW**

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

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, 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 Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

BEM 225 addresses Citizenship/Non-Citizen Status:

#### **QUALIFIED NON-CITIZEN**

##### **All Programs**

The definition of qualified non-citizen includes specific non-citizen statuses, but **not** all non-citizen statuses. This definition is used in several of the acceptable non-citizen statuses, in conjunction with other criteria. Not all acceptable non-citizen statuses require that the person be a qualified non-citizen.

Qualified non-citizen means a non-citizen who is:

- Lawfully admitted for permanent residence under the INA.
- Granted asylum under Section 208 of the INA.
- A refugee who is admitted to the U.S. under Section 207 of the INA; this includes Iraqi and Afghan special immigrants.
- Paroled into the U.S. under Section 212(d)(5) of the INA for a period of at least one year.
- A non-citizen whose deportation is being withheld under Section 241(b)(3) or 243(h) of the INA.
- Granted conditional entry pursuant to Section 203(a)(7) of the INA.
- A Cuban/Haitian entrant.
- A non-citizen who has been battered or subjected to extreme cruelty in the U.S. by a U.S. citizen or legal permanent resident spouse or parent, or by a member of the spouse's or parent's family living in the same household or is the parent or child of a battered person.

#### **FIP, SDA, MA, CDC and FAP**

- A compact of Free Association (COFA) citizens of Federated States of Micronesia, the Republic of Marshall Islands, and the Republic of Palau entrant.

BEM 225 (November 1, 2024) pp. 3-4. (Underline added by ALJ)

#### **FIP, MA and FAP**

- A non-citizen who has been battered or subjected to extreme cruelty in the United States or whose child or parent has been battered or subjected to extreme cruelty in the United States.

**Exception:** The eligibility of a battered alien admitted into the U.S. on or after August 22, 1996, is restricted as follows:

- **For FIP**, clients are disqualified for the first five years in the U.S.
- **For MA**, clients are limited to emergency services for the first five years in the U.S.
- **For FAP**, clients are disqualified unless they meet one of the applicable footnotes listed in Exhibit II CITIZENSHIP/NON-CITIZEN STATUS TABLE at the end of this item.

A non-citizen is considered a battered alien if all the following conditions are met:

- The USCIS or the Executive Office of Immigration Review (EOIR) has granted a petition or found that a pending petition

sets forth a prima facie case that the non-citizen is eligible for legal permanent resident status (LPR) by way of being one of the following:

- A spouse or child of a U.S. citizen or LPR.
- The widow or widower or a U.S. citizen to whom the non-citizen had been married for at least two years before the citizen's death.
- A battered alien, or the non-citizen parent of a battered child, or the non-citizen child of a battered parent.
- The abuse was committed by the non-citizen's spouse or parent, or by a member of the spouse or parent's family residing in the same household as the non-citizen, and the spouse or parent consented to such battery or cruelty (and if the victim was the non-citizen's child, the non-citizen did not participate in or condone the abuse).
- There is a substantial connection between the battery or extreme cruelty and the need for assistance.
- The battered alien, child or parent no longer lives in the same household as the abuser.

BEM 225 (November 1, 2024) pp. 8-9. (Underline added by ALJ)

**EXHIBIT II - CITIZENSHIP/NON-CITIZEN STATUS TABLE**

	<b>FIP</b>	<b>SDA</b>	<b>CDC</b>	<b>FAP</b>	<b>MA</b>
<b>U.S. Citizen (include person born in Puerto Rico)</b>	Yes	Yes	Yes	Yes	Yes
<b>Person born in Canada, at least 50% American Indian</b>	Yes	Yes	Yes	Yes	Yes
<b>Member of American Indian tribe</b>	Yes	Yes	Yes	Yes	Yes
<b>Qualified Military Non-Citizen</b>	Yes	Yes	Yes	Yes	Yes
<b>Spouse or Dependent Child of Qualified Military Non-Citizen</b>	Yes	Yes	Yes	Yes	Yes
<b>Refugee under Section 207; including Iraqi and Afghan special immigrants.</b>	Yes	Yes	Yes	Yes	Yes
<b>Asylee under Section 208</b>	Yes	Yes	Yes	Yes	Yes
<b>Cuban/Haitian Entrant</b>	Yes	Yes	Yes	Yes	Yes
<b>Compact of Free Association (COFA) citizens*</b>	Yes	Yes	Yes	Yes	Yes

	FIP	SDA	CDC	FAP	MA
<b>Amerasian (I-551 has class code AM)</b>	Yes	Yes	Yes	Yes	Yes
<b>Victim of Trafficking</b>	Yes	Yes	Yes	Yes	Yes
<b>Lawful Permanent Resident, I-551 has class code RE, AM, AS, SI or SQ</b>	Yes	Yes	Yes	Yes	Yes
<b>Lawful Permanent Resident, I-551 class code is OTHER THAN RE, AM, AS, SI or SQ</b>					
• U.S. entry before 8/22/96	Yes	Yes	Yes	Yes	Yes
• U.S. entry on or after 8/22/96					
•• First five years in U.S.	No a	No a,b,d	Yes	No a,b,c, a f, g	E a
•• More than five years in U.S.	Yes	No a,b,d	Yes	Yes	Yes
<b>Lawful Permanent Resident, has I-151</b>	Yes	Yes	Yes	Yes	No
<b>Deportation (Removal) Withheld under Section 241(b)(3) or 243(h)</b>					
• First five years after withholding order	Yes	Yes	Yes	Yes	Yes
• Sixth and seventh years after withholding order	No	Yes	Yes	Yes	Yes
• More than seven years after withholding order	No a	Yes	Yes	Yes	Yes
<b>Granted Conditional Entry under Section 203(a)(7)</b>	Yes	Yes	Yes	Yes	Yes
<b>Paroled under Section 212(d)(5) for at least one year</b>					
• U.S. entry before 8/22/96	Yes	Yes	Yes	Yes	Yes
• U.S. entry on or after 8/22/96					
•• First five years in U.S.	No a	No a,d	Yes	No a,c,f, a g	E a
•• More than five years in U.S.	Yes	No a,d	Yes	Yes	Yes

	FIP	SDA	CDC	FAP	MA
<b>Battered Aliens</b>					
• U.S. entry before 8/22/96	Yes	No a,d	No	Yes	Yes
• U.S. entry on or after 8/22/96					
•• First five years in U.S.	No	No a,d	No	No a,b,c, f, g	E a
•• More than five years in U.S.	Yes	No a,d	No	Yes	Yes
<b>Paroled under Section 212(d)(5) for less than one year</b>	No	No	No	No	E
<b>Non-immigrant (student, tourist)</b>	No	No	No	No	E
<b>Pregnant individual or individual under age 21 that is lawfully residing in the US in any immigration status</b>	N/A	N/A	N/A	N/A	Yes
<b>Non-Citizens not described above undocumented non-citizens)</b>	No	No	No	No	E
<p><sup>a</sup> Unless a qualified military non-citizen, or the spouse or dependent child of a qualified military non-citizen.</p> <p><sup>b</sup> Unless permanent resident has at least 40 countable Social Security Credits.</p> <p><sup>c</sup> Unless lawfully residing in U.S. on 8/22/96 and age 65 or older on 8/22/96; or a Hmong or Highland Laotian tribe member that rendered assistance to U.S. personnel by taking part in a military or rescue operation during Vietnam era (August 5, 1964 - May 7, 1975) lawfully residing in U.S., their spouse, unmarried dependent child under age 18 now, or unremarried surviving spouse.</p> <p><sup>d</sup> Unless lawfully residing in the U.S. now and was receiving SSI on 8/22/96 or was lawfully residing in the U.S. on 8/22/96 and is blind or disabled now.</p> <p><sup>e</sup> Means medical coverage is limited to emergency services.</p> <p><sup>f</sup> Unless lawfully residing in the U.S. and blind or disabled now.</p> <p><sup>g</sup> Unless under age 18 now.</p> <p>*Citizens of the Federated States of Micronesia, the Republic of Marshall Islands, and the Republic of Palau.</p>					

BEM 225 (November 1, 2024) pp. 34-36

In this case, Petitioner reported she was not a US National/Citizen, she had an I-551 Permanent Resident Card, and her date of US entry was January 28, 2025. Petitioner reported she was living in a domestic violence shelter. (Exhibit A, pp. 10-17). Petitioner's Permanent Resident card shows she has been a resident since January 28, 2025. (Exhibit A, p. 30).

As a battered alien admitted into the U.S. after August 22, 1996, Petitioner's MA eligibility is limited to MA-ESO for the first five years in the US. There was no evidence that she met footnote a to Exhibit II in the BEM 225 policy, i.e. that she was a qualified military non-citizen, or the spouse or dependent child of a qualified military non-citizen.

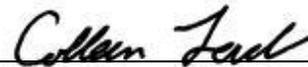
Regarding FAP, the evidence does not show that Petitioner met one of the applicable footnotes to Exhibit II in the BEM 225 policy regarding battered aliens. The applicable footnotes are: (a) unless a qualified military non-citizen, or the spouse or dependent child of a qualified military non-citizen; (b) unless permanent resident has at least 40 countable Social Security Credits; (c) unless lawfully residing in U.S. on 8/22/96 and age 65 or older on 8/22/96; or a Hmong or Highland Laotian tribe member that rendered assistance to U.S. personnel by taking part in a military or rescue operation during Vietnam era (August 5, 1964 - May 7, 1975) lawfully residing in U.S., their spouse, unmarried dependent child under age 18 now, or unremarried surviving spouse; (f) unless lawfully residing in the U.S. and blind or disabled now; (g) unless under age 18 now. Pursuant to the BEM 225, policy the Department properly determined that Petitioner was only eligible for MA-ESO and was not eligible for FAP benefits.

Petitioner's hearing request indicates she believes she is exempt from the 5-year waiting period as a battered woman under the 1996 Welfare Reform Law. (Exhibit A, p. 5). However, the legal base of the BEM 225 policy includes the Personal Responsibility and Work Opportunity Reconciliation Act (PRWORA) P.L. 104-193 of 1996, as amended. BEM 225, (November 1, 2024, p. 40). Petitioner was not aware of any specific provision in this law that supports Petitioner's assertion that she is exempt from the 5-year waiting period. Upon review of this law, no specific provision was found that would allow for Petitioner to be found eligible for full coverage MA or FAP benefits at this time.

### **DECISION AND ORDER**

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 determined Petitioner's eligibility for MA and FAP benefits.

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



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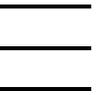
**COLLEEN LACK**  
**ADMINISTRATIVE LAW JUDGE**

**APPEAL RIGHTS:** Petitioner may appeal this Hearing Decision to the circuit court. Rules for appeals to the circuit court can be found in the Michigan Court Rules (MCR), including MCR 7.101 to MCR 7.123, available at the Michigan Courts website at [courts.michigan.gov](https://courts.michigan.gov). The Michigan Office of Administrative Hearings and Rules (MOAHR) cannot provide legal advice, but assistance may be available through the State Bar of Michigan at <https://lrs.michbar.org> or Michigan Legal Help at <https://michiganlegalhelp.org>. A copy of the circuit court appeal should be sent to MOAHR. A circuit court appeal may result in a reversal of the Hearing Decision.

Either party who disagrees with this Hearing Decision may also send a written request for a rehearing and/or reconsideration to MOAHR within 30 days of the mailing date of this Hearing Decision. The request should include Petitioner's name, the docket number from page 1 of this Hearing Decision, an explanation of the specific reasons for the request, and any documents supporting the request. The request should be sent to MOAHR

- by email to [MOAHR-BSD-Support@michigan.gov](mailto:MOAHR-BSD-Support@michigan.gov), **OR**
- by fax at (517) 763-0155, **OR**
- by mail addressed to  
Michigan Office of Administrative Hearings and Rules  
Rehearing/Reconsideration Request  
P.O. Box 30639  
Lansing Michigan 48909-8139

Documents sent via email are not secure and can be faxed or mailed to avoid any potential risks. Requests MOAHR receives more than 30 days from the mailing date of this Hearing Decision may be considered untimely and dismissed.



**Via Electronic Mail:**

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