

**BEFORE THE ALASKA OFFICE OF ADMINISTRATIVE HEARINGS
ON REFERRAL BY THE COMMISSIONER OF HEALTH AND SOCIAL SERVICES**

In the Matter of)	
)	
N B)	OAH No. 16-0527-APA
<hr style="width:40%; margin-left:0"/>)	Agency No.

DECISION

I. Introduction

N B applied to the Division of Public Assistance for adult public assistance, Medicaid, and food stamp benefits. The agency denied her application for all three programs. Because the division correctly determined that Ms. B is not a citizen or a “qualified alien” and is therefore not eligible for the programs, the division's decision is affirmed.

II. Facts

Ms. B lives in No Name. She was born in El Salvador.¹ She is disabled.² She receives social security disability insurance benefits from the federal Social Security Administration.³ Eligibility for this program depends on the number of quarters a person has worked and paid FICA taxes into the social security system. Ms. B has a social security number and an employment authorization card.⁴ She also applied for benefits from another Social Security Administration program, the supplemental security income program, but was denied.⁵

Ms. B applied for assistance from three different programs administered by the state: adult public assistance, Medicaid, and food stamps. The division denied her application for all three programs.

A hearing was held on May 31, 2016. Ms. B represented herself. The Office of Administrative Hearings furnished an interpreter. Fair Hearing Representative Jeff Miller represented the division.

¹ Division Exhibit 3.1.
² Division Exhibit 5.1.
³ Division Exhibit 5.4 - 5.6.
⁴ Division Exhibit 3.1.
⁵ Division Exhibit 7.

III. Discussion

In order to qualify for assistance under each of the three programs Ms. B applied for, a person must demonstrate that they are a citizen or a “qualified alien.” In addition, to qualify for adult public assistance, a person must qualify for federal supplemental security income (SSI).

A. *Ms. B is not a citizen or qualified alien*

Federal law prohibits an alien who is not a “qualified alien” from receiving any federal public benefit, including Medicare and food stamps.⁶ To be eligible for the federally-funded Medicaid and food stamp programs, as well as the state adult public assistance program, a person must be a U.S. citizen or a “qualified alien.”⁷ Ms. B is not a citizen or a “qualified alien.” Ms. B does not meet the definition of “qualified alien” in federal law.⁸ She has not provided evidence of citizenship. She has not provided evidence that she has been lawfully admitted for permanent residence, granted asylum, admitted as a refugee, or otherwise obtained “qualified alien” status. Ms. B has temporary protected status under 8 C.F.R. § 244.12, and this is the basis for her employment authorization.⁹ However, temporary protected status does not make a person a “qualified alien” under 8 U.S.C. § 1641. Because Ms. B is not a citizen or qualified alien, she is not eligible for assistance under the food stamp, Medicaid, and adult public assistance programs.

⁶ 8 U.S.C. 1611(a).

⁷ 7 AAC 100.052 (Medicaid); 7 C.F.R. 273.4(a)(6)(i) (food stamps); AS 47.25.430(f)(2) (adult public assistance).

⁸ 8 U.S.C. 1641(b) defines a “qualified alien” as “an alien who, at the time the alien applies for, receives, or attempts to receive a Federal public benefit, is--

(1) an alien who is lawfully admitted for permanent residence under the Immigration and Nationality Act [8 U.S.C.A. § 1101 et seq.],

(2) an alien who is granted asylum under section 208 of such Act [8 U.S.C.A. § 1158],

(3) a refugee who is admitted to the United States under section 207 of such Act [8 U.S.C.A. § 1157],

(4) an alien who is paroled into the United States under section 212(d)(5) of such Act [8 U.S.C.A. § 1182(d)(5)] for a period of at least 1 year,

(5) an alien whose deportation is being withheld under section 243(h) of such Act [8 U.S.C. § 1253] (as in effect immediately before the effective date of section 307 of division C of Public Law 104-208) or section 241(b)(3) of such Act [8 U.S.C. § 1231(b)(3)] (as amended by section 305(a) of division C of Public Law 104-208),

(6) an alien who is granted conditional entry pursuant to section 203(a)(7) of such Act [8 U.S.C. § 1153(a)(7)] as in effect prior to April 1, 1980; or

(7) an alien who is a Cuban and Haitian entrant (as defined in section 501(e) of the Refugee Education Assistance Act of 1980).”

⁹ Division Exhibit 3.1, a copy of Ms. B's employment authorization card, shows Ms. B's category as A12. This category code corresponds with temporary protected status. Division Exhibit 3.3.

B. Ms. B does not qualify for SSI

Mr. B also does not qualify for the adult public assistance program because she is not eligible for supplemental security income (SSI) benefits. Eligibility for the state adult public assistance program is contingent on eligibility for benefits under the federal SSI program.¹⁰ Although Ms. B has been found disabled and is receiving benefits under the social security disability benefits program (SSDI), she is not qualified for benefits under the SSI program.

There are several exceptions to the provision prohibiting an alien who is not a “qualified alien” from receiving federal benefits. There is an exception that allows an alien who is lawfully present in this country to receive social security disability benefits (SSDI).¹¹ Ms. B is authorized to work in the United States. She has worked and contributed to the Social Security system for enough quarters to qualify for an SSDI benefit. However, this exception only applies to the SSDI program, not the needs-based SSI program.

For SSI benefits, “qualified alien” status is required.¹² Payment of FICA taxes does not qualify a person to participate in this program, unlike the social security disability insurance program. Ms. B applied for SSI benefits and was denied.¹³ She was denied because she is not a citizen or an eligible alien.¹⁴ Because Ms. B does not qualify for SSI benefits, she also does not qualify for adult public assistance benefits.¹⁵

IV. Conclusion

Because she is not a “qualified alien,” Ms. B does not qualify for assistance under Alaska's Medicaid, food stamp, or adult public assistance program. The fact that she is not eligible for SSI also indicates that she does not qualify for adult public assistance. The division's denial of her application for benefits under these programs is affirmed.

Dated: June 21, 2016.

Signed _____
Kathryn L. Kurtz
Administrative Law Judge

¹⁰ 7 AAC 40.030(a).

¹¹ 8 U.S.C. § 1611(b)(2).

¹² The “qualified alien” status requirement applies to the supplemental security income program, unless the alien was receiving benefits on August 22, 1996. 8 U.S.C. § 1611(b)(5).

¹³ Division Exhibit 7.

¹⁴ Division Exhibit 8.

¹⁵ 7 AAC 40.030(a).

Adoption

The undersigned, by delegation from the Commissioner of Health and Social Services, adopts this Decision, under the authority of AS 44.64.060(e)(1), as the final administrative determination in this matter.

Judicial review of this decision may be obtained by filing an appeal in the Alaska Superior Court in accordance with Alaska R. App. P. 602(a)(2) within 30 days after the date of this decision.

DATED this 7th day of July, 2016.

By: Signed
Name: Stephen C. Slotnick
Title: Administrative Law Judge/DOA

[This document has been modified to conform to the technical standards for publication.]