

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],

Claimant

Reg. No: 2008-25009

Issue No: 2000

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

July 14, 2009

Wayne County DHS

ADMINISTRATIVE LAW JUDGE: William A. Sundquist

ORDER OF DISMISSAL

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9; and MCL 400.37; upon claimant's request for a hearing filed on June 23, 2008. After due notice, a hearing was held July 14, 2009.

Prior to the closure of the hearing record, the primary undisputed facts before the hearing are as follows:

- (1) Negative action: Medicaid application on March 31, 2008 was denied on May 5, 2008 based on noncompliance with timely verification requirements per PAM 105/130.
- (2) In July 2008, the claimant died.
- (3) The claimant-decedent's representative had no letters of authority from the probate court to represent the decedent's estate at the hearing.

Program Administrative Manual 600 defines an authorized hearing representative as:

The person who stands in for or represents the client in the hearing process and has a legal right to do so. The right comes from the following sources:

- . Written authorization, signed by the client, giving the person authority to act for the client in the hearing process;
- . Court appointed as a guardian or conservator;
- . The representative's status as a legal parent of the minor child;
- . The representative's status as an attorney at law for the claimant;
- . For medical assistance only, the representative's status as the client's spouse or the deceased client's widow or widower, only when no one else has authority to represent the client's interest in the hearing process.

Further, the policy provides that an authorized hearing representative does not have a right to a hearing, but exercises the claimant's right.

The authorization to represent a client or a Power of Attorney may be revoked at any time by the person who gave the authorization. A dead person can neither give or revoke nor affirm the authorization. After death, the person does not exist as a legal entity, so no one can represent the person. MCL 700.497 and MCL 700.5504.

An estate can be made for a dead person to handle the remaining business and financial consideration that were outstanding at the time of death. Only a probate court can create a decedent's estate.

Pursuant to MCL 700.175, the authority could proceed on behalf of the decedent as given to a personal representative appointed by the probate court.

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Therefore, it is not necessary for the Administrative Law Judge to decide the matter that was in dispute. Pursuant to MAC R 400.906 and 400.903, claimant's hearing request is HEREBY DISMISSED, because claimant is no longer aggrieved by a department action.

/s/

William A. Sundquist
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: August 10, 2009

Date Mailed: August 11, 2009

NOTICE: Administrative Hearings 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. Administrative Hearings 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.

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 was made, within 30 days of the receipt date of the rehearing decision.

WAS/tg

cc:

