

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: 2009-25546
Issue No: 2000
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
February 18, 2010
Macomb County DHS

ADMINISTRATIVE LAW JUDGE: William A. Sundquist

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on February 18, 2010.

ISSUE

Was an authorized hearing representative established?

FINDINGS OF FACT

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

- (1) On January 28, 2009, the claimant requested a hearing.
- (2) In June 2009, the claimant died.
- (3) On February 18, 2010, the hearing was scheduled.
- (4) At the scheduled hearing, the decedent's grandchild wanted to represent the decedent's estate without letters of authority from the [REDACTED].

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department of Human Services (DHS or department) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105. Department policies are found in the Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Facts above are undisputed.

After death, the principle no longer exists as a separate legal entity; consequently, an estate must be created to handle many business and financial concerns outstanding at the time of his or her death. Only the Probate Court can create a decedent's estate in appointing personal representative, special fiduciary or temporary personal representative to act on behalf of that estate, which includes pursuing potential financial gain from the Medicaid (MA) program, pursuant to an action pending at the time of the principle's death. [REDACTED],

[REDACTED]

Therefore, as a matter of law, this ALJ had no legal authority to conduct a hearing without an authorized hearing representative for the decedent's estate.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that an authorized representative was not established.

Accordingly, the ALJ had no legal authority to conduct a hearing, and the hearing request is DISMISSED.

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

Date Signed: March 17, 2010

Date Mailed: March 17, 2010

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:

