

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: 2008-9106
Issue No: 6000
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
February 17, 2010
Kalamazoo County DHS

ADMINISTRATIVE LAW JUDGE: Janice Spodarek

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's representative's request for a hearing. After due notice, a three-way telephone hearing was held on February 17, 2010. Claimant failed to appear. Claimant's representative – [REDACTED] – appeared by 3-way telephone.

ISSUE

Is there jurisdiction to proceed where a claimant's representative stipulated that the representative has no authorization to represent?

FINDINGS OF FACT

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

- (1) The issue in this case has to do with benefits from November, 2005.
- (2) On 2/9/06, the DHS received an MA application with retro to 11/05 on behalf of claimant. The application was submitted by claimant's wife.

(3) An application with a date stamp of November 7, 2007 was attached to the hearing request. The relevancy for attaching a 2007 application to a hearing request for a 2006 application was not clarified by claimant's representative.

(4) At some point in time which was not articulated on the record, L & S became involved in claimant's case.

(5) On 3/30/06, the DHS sent a verification checklist for income and assets. The verifications were due one year later—3/13/07. It appears that the 2007 date is a typo and in fact the verifications were due 3/13/06.

(6) On 3/15/06, ██████ requested an extension. The department granted the extension.

(7) On 3/24/06, the requested verifications were not provided and the department issued a DHS-1150—Denial Notice.

(8) On 11/7/07, L & S filed a request for a hearing.

(9) On 11/26/07, SOAHR received the packet. SOAHR did not schedule an administrative hearing until 4/10/2008 for April 23, 2008. Apparently claimant was a “did not appear”. Due to the representative contacting SOAHR and stating that they did not get adequate notice as required, SOAHR once again scheduled a new hearing on 1/28/2010 for 2/17/2010.

(10) Documents in the file indicate that ██████ had a signed Authorization for Release of Information from claimant dated 1/20/06--four years old. Documents in the file indicated that an Authorization to Represent form was also four years old--dated 1/20/06.

(11) The Authorization for Release of Information states in part: “[The authorization for release of information] shall expire 24 months from the date of my signature.”

(12) Claimant failed to show for the administrative hearing. Claimant's mail was returned to SOAHR. The representative was unaware of claimant's whereabouts. The representative did not have a current address for claimant.

(13) The representative at the administrative hearing stipulated that Authorization to Represent was inadequate as it was over two years old and stipulated to the dismissal of the hearing request.

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).

General policy and procedure regarding authorization to represent is found in BAM Items 110, 115 and 600. In order for a third party to represent an individual, there must be adequate authorization in the file to reflect an individual's authorization to have a third party represent him or her at an administrative hearing and in the process of gathering medical documentation.

In this case, the third party's own documents indicate that unless otherwise specified, the Authorization for Release of Information would automatically expire within 24 months from the date of the signature. As noted in the Findings of Fact, the date of the signature is 1/20/06.

The representative at the administrative hearing stipulated that the Authorization to Represent was dated and inadequate. Thus, the request for an administrative hearing is dismissed.

It is noted in the alternative that the request for the hearing was well beyond the 90-day jurisdictional window as the notice was issued 3/24/06 and the hearing request was not received until 11/7/07. Thus, in the alternative, claimant's hearing request would be untimely and there would be, in the alternative, no jurisdiction herein.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides for the reasons set forth herein, there is no jurisdiction to proceed with the hearing request filed by a third party and thus,

Accordingly, the hearing request in this matter is hereby DISMISSED.

/s/ _____
Janice Spodarek
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: March 18, 2010

Date Mailed: March 22, 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 mailing 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.

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cc:

