

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: 2009-10080
Issue No: 2006
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 8, 2009
Eaton County DHS

ADMINISTRATIVE LAW JUDGE: Carmen G. Fahie

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 Thursday, October 8, 2009. The claimant is deceased, but was represented by [REDACTED]

ISSUE

Did [REDACTED] Associates, Inc. have the authority to apply for the claimant to file a Medical Assistance (MA) application on behalf of the claimant?

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 claimant was deceased in [REDACTED].
- (2) On July 31, 2006, [REDACTED] filed an incomplete application on behalf of the deceased claimant with retroactive MA to [REDACTED]. (Department Exhibit 12-13)
- (3) On September 5, 2006, the department caseworker sent claimant's mother a Verification Checklist, DHS-3503, that was due on September 15, 2006 to provide verification to determine MA eligibility.
- (4) On September 15, 2006, the department caseworker sent claimant's mother a Verification Checklist, DHS-3503, that was due on September 25, 2006 to provide verification to determine MA eligibility.
- (5) On September 26, 2006, the department caseworker denied the claimant's application for failure to provide verification to determine MA eligibility.
- (6) On September 28, 2006, [REDACTED] received probate authority to represent the claimant. (Claimant Exhibit C)
- (7) On September 29, 2006, [REDACTED] probate authority person signed an Authorization To Represent for the claimant to [REDACTED] (Claimant Exhibit D)
- (8) On November 3, 2006, the department received a hearing request from the claimant's representative, contesting the department's negative action.

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).

The Department's Policy Manuals provide the following relevant policy statements and instructions for caseworkers:

DEPARTMENT POLICY

All Programs

Clients have rights and responsibilities as specified in this item.

The local office must do **all** of the following:

- . Determine eligibility.
- . Calculate the level of benefits.
- . Protect client rights. PAM, Item 105, p. 1.

CLIENT OR AUTHORIZED REPRESENTATIVE RESPONSIBILITIES

Responsibility to Cooperate

All Programs

Clients must cooperate with the local office in determining initial and ongoing eligibility. This includes completion of the necessary forms. PAM, Item 105, p. 5.

Client Cooperation

The client is responsible for providing evidence needed to prove disability or blindness. However, you must assist the client when they need your help to obtain it. Such help includes the following:

- . Scheduling medical exam appointments
- . Paying for medical evidence and medical transportation
- . See PAM 815 and 825 for details. PEM, Item 260, p. 4.

LOCAL OFFICE RESPONSIBILITIES

All Programs

Ensure client rights described in this item are honored and that client responsibilities are explained in understandable terms. Clients are to be treated with dignity and respect by all DHS employees. PAM, Item 105, p. 8.

Informing the Client

All Programs

Inform people who inquire about:

- . the DHS programs available, including domestic violence comprehensive services.
- . their right to apply.

Provide specific eligibility information on any program they are interested. PAM, Item 105, p. 9.

AUTHORIZED REPRESENTATIVES

All Programs

An **Authorized Representative** (AR) is a person who applies for assistance on behalf of the client and/or otherwise acts on his behalf (e.g., to obtain FAP benefits for the group.) An AR is not the same as an Authorized Hearing Representative (AHR) PAM, Item 110, p. 6.

The AR assumes all the responsibilities of a client. See PAM 105. PEM, Item 110, p. 7.

MA Only

Application may be made on behalf of a client by his spouse, parent, legal guardian, adult child, stepchild, specified relative or any other person provided the person is at least age 18 or married. If this person is not a spouse, parent, legal guardian, adult child, stepchild, or specified relative the person must have a signed authorization to act on behalf of the client, by the client, client's spouse, parent(s) or legal guardian.

The application form must be signed by the client or the individual acting as his authorized representative.

When an assistance application is received in the local office without the applicants signature or without a signed document authorizing someone to act on the applicants behalf you must do the following:

- Register the application as a request if it contains a signature.
- Send a DHS-723, Incomplete Application Notice, to the agency or the individual who completed the application.
- Send a DHS-330, Pending Application Notice, to the client explaining the need for a valid signature. The signature page of the application may be copied and sent to the agency or individual who filled out the application with the notice.
- Allow 10 days for a response. You cannot deny an application due to incompleteness until 10 calendar days from the date of your initial request in writing to the applicant to complete the application form or supply missing information, or the initial scheduled interview.
- Record the date the application or filing form with the minimum information is received. The application must be registered and disposed of on ASSIST, using the receipt date as the application date.

An application received from an agency is acceptable if it is signed by an individual and is accompanied by written documentation from the client authorizing the agency to act as their authorized representative. PAM, Item 110, p. 8:

**SPECIFIED
RELATIVE
DEFINED**

A specified relative is any of the following:

- Parent.
- Aunt or uncle.
- Niece or nephew.

- Any of the above relationships prefixed by grand, great or greatgreat.
- Stepparent.
- Sister or brother.
- Stepsister or stepbrother.
- First cousin.
- First cousin once removed (i.e., a first cousin's child).
- The spouse of any person above, **even** after marriage is ended by death or divorce. PEM, Item 135, p. 4 & 5.

REGISTERING APPLICATIONS

All Programs

Register a signed application or filing form, with the minimum information, within one **workday** for all requested programs. See “Right **To Apply**” in the “**CLIENT RIGHTS**” section in PAM 105 for the minimum information necessary to register an application. PAM, Item 110, p. 15.

In the instant case, the claimant died in [REDACTED]. On July 31, 2006, [REDACTED] applied on behalf of the claimant with a retroactive application to [REDACTED]. [REDACTED] did not have the authorization to file an application on behalf of a deceased claimant. In order for [REDACTED] to file an application on behalf of a deceased claimant before application, [REDACTED] would need Letters of Authority from Probate Court or authorization from a specified relative. [REDACTED] received their Probate Court authorization on [REDACTED], but the department denied the case on September 26, 2006. [REDACTED] did not have the authority to submit on application on behalf of a deceased claimant.

As a result, the department refused to send [REDACTED] an Authorization Checklist, but sent the information to the claimant's mother on September 5, 2006 that was due September 15, 2006 and again on September 15, 2006 that was due September 25, 2006. When the additional information that was required was not received, the department denied the claimant's case on September 26, 2006.

This Administrative Law Judge finds that the department should not have even processed the application because [REDACTED] did not have authority to file an application on behalf of the deceased claimant on July 31, 2006 without Letters of Authority from Probate Court or authorization from a specified relative.

Therefore, the department has established that it was acting in compliance with department policy by determining that [REDACTED] did not have the authority to apply for MA benefits on the claimant's behalf because the application was filed on July 31, 2006 and the claimant died in [REDACTED]. In addition, the department correctly denied the application because the required verifications required to determine eligibility for MA were not received by the due date.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department has appropriately established that it was acting in compliance with department policy when it denied the claimant's application for MA because [REDACTED] lacked standing to file an application on behalf of a deceased claimant without Probate authority and the required verifications were not received by the due date.

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

/s/ _____
Carmen G. Fahie
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: December 22, 2009

Date Mailed: December 22, 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 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.

CGF/vmc

cc:

