

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.: 2010-17018

Issue No.: 4023

Case No.: [REDACTED]

Load No.: [REDACTED]

Hearing Date:

March 8, 2010

Wayne County DHS (82)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Claimant's request for hearing. After due notice, a hearing was held in Redford, Michigan, on Monday, March 8, 2010. The Claimant appeared and testified by telephone. [REDACTED] from Adult Protective Services appeared on behalf of the Department.

ISSUE

Whether the Department acted in accordance with policy when it selected a protective payee to receive and manage the State Disability Assistance ("SDA") benefits on behalf of the Claimant?

FINDINGS OF FACT

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

1. On May 7, 2009 the Claimant participated in hearing which resulted in a finding that the Claimant was disabled for purposes of the Medical Assistance ("MA-P") and SDA benefit programs. (Exhibit 1)

2. The Department was ordered to make a referral to the Adult Protective Services (“APS”) to assess the appropriateness of a payee or conservatorship for the Claimant. (Exhibit 1)
3. The Claimant did not appeal the Decision (mailed on October 1, 2009) or seek reconsideration.
4. On October 26, 2009, the Claimant agreed to have his brother appointed as his payee. (Exhibit 3)
5. On December 28, 2009, the Department received the Claimant’s written hearing request requesting the removal of the payee thus allowing payments directly to the Claimant. (Exhibit 5)

CONCLUSIONS OF LAW

The Medical Assistance (“MA”) program is established by Subchapter XIX of Chapter 7 of The Public Health & Welfare Act. 42 USC 1397 and is administered by the Department of Human Services, formerly known as the Family Independence Agency, pursuant to MCL 400.10 *et seq* and MCL 400.105. Department policies are found in the Bridges Administrative Manual (“BAM”), the Bridges Eligibility Manual (“BEM”), and the Bridges Policy Glossary (“BPG”).

Clients have the right to contest a department decision affecting eligibility or benefit levels whenever they believe the decision is incorrect. BAM 600 In some circumstances benefit payments can, or must, be restricted to someone other than the individual (program group). BAM 420 A protective payee is a person/agency selected to be responsible for receiving and managing the cash assistance on behalf of the individual (program group) as a third party. *Id.* Restricted payments are required in any of the following circumstances:

- Court-ordered shelter arrearage collection
- Third-party resource disqualification
- Minor parent

- Substance Abuse
- Client convicted of a drug-related felony
- Money mismanagement
- A child(ren) receiving FIP has a legal guardian
- Eviction or threatened eviction

Id. Restricted payment status is reviewed when appropriate but at least at every determination.

Id. The client has the right to request and be granted a review of the restricted payment status every six months. *Id.* An individual (group) may request a hearing to dispute a decision to begin or continue restricted payments or dispute the selection of a protected payee. *Id.* Restricted payments are continued until the hearing matter is resolved. *Id.*

In this case, on October 1, 2009, a Hearing Decision was mailed to the Claimant which found him disabled for purposes of the MA-P and SDA benefit programs. This decision was not contested. The Department was ordered to make a referral to the APS regarding the need to appoint a payee. The referral was made resulting in the appointment of the Claimant's brother (agreed to by the Claimant) as payee. Subsequently, the Claimant protested the restricted payments and sought to have the payee removed thus giving the Claimant the authority to manage his benefits. During the hearing, the Claimant acknowledged that outside of one incident relating to the repayment of a loan, the payee has turned over all benefits to the Claimant. The APS worker opined the Claimant still needed a payee. Ultimately, in consideration of the entire record, it is found that the Department established it acted in accordance with policy when it appointed the Claimant's brother as the payee. Accordingly, the Department's actions are upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law finds the Department acted in accordance with Department policy when it appointed the Claimant's brother as payee.

Accordingly, it is ORDERED:

1. The Department's actions are AFFIRMED.
2. The Department shall review the Claimant's restricted payment status along with his MA-P review scheduled for March 2010.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 3/10/2010

Date Mailed: 3/10/2010

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 60 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.

CMM/jlg

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