

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg No. 201044934
Issue No. 2011
Case No. [REDACTED]
Load No. 3 [REDACTED]
Hearing Date: September 23, 2010
Jackson County DHS

ADMINISTRATIVE LAW JUDGE: Jana A. Bachman

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 a hearing. After due notice, a telephone hearing was held on September 23, 2010. Claimant was represented by [REDACTED] c.

ISSUE

Whether the Department of Human Services (department) acted in compliance with department policy when it determined claimant's eligibility for Medical Assistance (MA) benefits?

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 or about October 3, 2009, claimant was deceased.
2. January 8, 2010, the department received an MA application filed by claimant's spouse through an authorized representative.
3. January 11, 2010, the department sent claimant's spouse and representative written notice that the application was denied. Department Exhibit A, pgs 2-5.

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).

Department manuals provide the following policy statements and instructions for caseworkers:

Any person, regardless of age, or his authorized representative (AR) may apply for assistance.

An **authorized representative** (AR) is a person who applies for assistance on behalf of the client and/or otherwise acts on his behalf.

When no one in the group is able to make application for program benefits, any group member capable of understanding AR responsibilities may designate the AR.

The AR assumes all the responsibilities of a client.

An AR must be at least age 18. The person is usually a guardian, spouse or relative outside the group.

Severe physical or mental limitations might prevent a client from applying or designating an AR. An unauthorized person who is otherwise qualified to be an AR may then apply for the client.

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.

An authorized representative must be:

- An adult child or stepchild.
- A specified relative.
- Designated in writing by the client.
- Court appointed.

- A representative of an institution (e.g., jail, prison) where the client is in custody.

An authorization to represent is a form of a power of attorney. When a person who gave the authorization dies, the power of attorney ends. After death, the person does not exist as a legal entity, so no one can represent the person. However, if a person dies while the application is pending, the application should be processed.

An estate may be created to handle the remaining business and financial issues that were outstanding at the time of death. Only a probate court can create a decedent's estate. The court will also appoint someone to act as a representative of the estate.

BRIDGES ADMINISTRATIVE MANUAL (BAM) 110; 42 CFR 435.906-908.

In this case, claimant's spouse authorized the representative to file an MA application for the decedent. A person may apply for MA for his/her spouse without the spouse's written consent. Accordingly, a person who is applying for MA for his/her spouse may also designate an authorized representative. In this instance and under these circumstances, it is not necessary for a representative to be appointed by probate court. Therefore, the department's action to deny the application cannot be upheld.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department of Human Services did not act in compliance with department policy when it determined claimant's eligibility for Medical Assistance.

Accordingly, the department's action is, hereby, REVERSED. The department is to initiate a determination of claimant's eligibility for MA in compliance with department policy and this Decision and Order.

/S/
Jana A. Bachman
Administrative Law Judge
for Duane Berger, Acting Director
Department of Human Services

Date Signed: February 9, 2011

Date Mailed: February 9, 2011

201044914/jab

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.

JAB/db

cc:

