

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]
S [REDACTED]

Reg. No: 201054535
Issue No: 2021
Hearing Date: May 17, 2011
Berrien County DHS

ADMINISTRATIVE LAW JUDGE: Janice G. Spodarek

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 scheduled for the third time due to claimant's previous unavailability. On April 22, 2011, SOAHR (MAHS) scheduled a hearing for May 17, 2011. Claimant did not appear.

ISSUE

Is there jurisdiction to proceed with regards to an MA hearing where claimant's daughter appeared without 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 negative action at issue herein is dated June 28, 2010.
2. Claimant requested a hearing on September 9, 2010. Claimant did not indicate any authorized hearing representative on his hearing request.
3. SOAHR (MAHS) scheduled an administrative hearing on January 26, 2011. Claimant did not appear.
4. On January 27, 2011, SOAHR (MAHS) issued an Order of Dismissal.
5. On February 15, 2011, SOAHR (MAHS) issued an Order Vacating the Order of Dismissal.
6. SOAHR (MAHS) rescheduled claimant's hearing for March 10, 2011. Claimant requested an adjournment.

7. On May 17, 2011, a third administrative hearing was held. That is the hearing herein. At the hearing, claimant did not appear. Claimant's appeared requesting to represent her father without any authorization from claimant.
8. Claimant's daughter indicated that he was out of town with relatives for a graduation.

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 BRIDGES Administrative Manual (BAM), the BRIDGES Eligibility Manual (BEM) and the BRIDGES Reference Manual (BRM).

Applicable policy and procedure to the case herein is found primarily in BAM Item 600. That item discusses requests signed by an authorized hearing representative. In order to represent an individual at an administrative hearing, an individual must obtain proper authorization. That authorization must be in writing unless the hearing representative is the client's attorney at law, parent, or for MA only—spouse. Federal authority is found at 42 CFR 431.200--250; 42 USC 1396r-5.

In this case, the individual who appeared at the administrative hearing was claimant's daughter. Claimant did not identify any individual as a hearing representative on his hearing request or at any time prior to the third scheduled administrative hearing. Under the above cited law and policy, there is no authorization for claimant's daughter to proceed on behalf of claimant. Thus, claimant's request must be dismissed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department's actions are upheld as claimant did not appear for the third administrative hearing. The individual who requested to appear on claimant's behalf did not have authorized to represent claimant. Claimant's hearing request is DISMISSED.

/s/
Janice G. Spodarek
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: June 3, 2011
Date Mailed: June 3, 2011

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.

JGS/db

cc:

