

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED]

Claimant

BY: [REDACTED]

Reg. No: 2010-9257

Issue No: 2000

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

June 29, 2010

Genesee 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 a request for a hearing, filed on July 29, 2009. After due notice, a hearing was scheduled and begun on June 29, 2010.

ISSUE

Did L&S present proper authorization to represent 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) On April 13, 2009, claimant passed away.
- (2) On May 29, 2009, [REDACTED] filed an MA application on behalf of claimant.
- (3) [REDACTED] represents the hospital in attempting to collect medical bills owing.
- (4) On July 29, 2009, the DHS denied the application.
- (5) On October 16, 2009, [REDACTED] filed a hearing request.

(6) On June 15, 2010, SOAHR issued a notice scheduling a hearing for June 29, 2010.

(7) On [REDACTED], [REDACTED] appeared at the evidentiary hearing by 3-way telephone conference call. At the administrative hearing, [REDACTED] represented [REDACTED], identifying himself as a “hearing representative.” No other individual appeared on behalf of claimant. [REDACTED] submitted an internal office form titled, “Authorization to represent,” which is printed on it claimant’s mother’s name. [REDACTED] stipulated that claimant’s mother did not sign the form. The signature line contains a printed name of the mother.

(8) [REDACTED] submitted no authorization and/or authority to proceed in this matter.

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).

Policy is quite specific with regards to jurisdiction to proceed in an administrative hearing with the Michigan DHS wherein an individual claimant is deceased. The facts in this matter indicate that claimant passed away on April 13, 2009. Claimant’s application for MA as well as the time of denial and request for a hearing all took place after claimant’s passing.

There are certain situations where certain individuals are allowed to proceed on behalf of decedents in such matters. In this case, authorization in writing is required under PAM 600 and other general application policy and procedure found throughout BAM and federal regulations. As noted in the Findings of Fact, the representative in this case stipulated that the “Authorization to represent” form composed by [REDACTED], does not contain the signature of claimant’s mother. Rather, the name is printed twice. The name is printed on the client’s signature line.

In this case, [REDACTED] is not recognized under DHS Policy and Procedure or otherwise at law to proceed on behalf of a deceased client at a DHS administrative hearing. [REDACTED] stipulated that the record did not contain a signature by any individual authorized to represent claimant, nor did [REDACTED] offer any authority which would allow this form to proceed without the necessary authorization. The hearing representative argued that in his opinion, he felt that the mother had the “intent” to sign and that presumed intent should be recognized. Again, there is no authority for this Administrative Law Judge to recognize a hearing representative’s presumption of an individual’s presumptive intent as indicative of proper jurisdiction. Claimant’s hearing request is dismissed.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that there is no jurisdiction for a hearing representative to proceed on behalf of a deceased client at a DHS administrative hearing where there is no proper authorization to represent that individual as required under DHS Policy and Procedure and in general, at law.

Claimant's hearing request is DISMISSED.

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

Date Signed: June 30, 2010

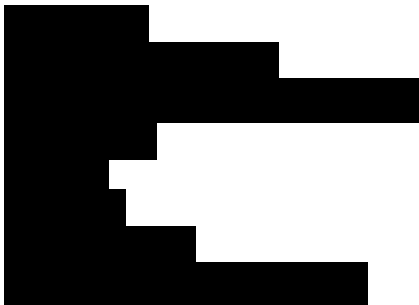
Date Mailed: July 1, 2010

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 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.

JGS/tg

cc:

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