

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2011-34628

Issue No: 2012

[REDACTED]

Lapeer County DHS

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

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 received on April 26, 2011. After due notice, a telephone hearing was held on June 29, 2011. Claimant's authorized representative, [REDACTED], personally appeared and provided testimony.

ISSUE

Whether the department properly withdrew Claimant's Medical Assistance (MA) application?

FINDINGS OF FACT

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

1. Claimant applied for Medicaid on February 28, 2011. (Department Exhibits 2-16).
2. On March 1, 2011, the department mailed Claimant's authorized representative a letter informing the AR that no one can represent Claimant after his death on December 3, 2010, because Claimant did not exist when the AR attempted to file the MA application. Therefore, the department withdrew Claimant's MA application. (Department Exhibit 1).
3. Claimant submitted a hearing request on April 26, 2011 protesting the withdrawal of Claimant's MA application. (Request for a Hearing).

CONCLUSIONS OF LAW

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. Clients have the right to contest a department decision affecting

eligibility or benefit levels whenever it is believed that the decision is incorrect. The department will provide an administrative hearing to review the decision and determine the appropriateness. BAM 600.

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 Reference Tables Manual (RFT).

According to the departmental representative during the hearing, the caseworker relied on BAM 110 to withdraw Claimant's MA application. BAM 100 states that for Medicaid only, 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.

In this case, the MA application was filed after Claimant died. However, Claimant did not give the authorization to file the application. Claimant's sister gave the authorization to file the MA application. Because Claimant did not give the authorization, the right to file an MA application did not die with the Claimant.

In addition, departmental policy states that as of January 1, 2011, for Medicaid only, an application may be made for a deceased person. BAM 255. Furthermore, policy states that any person, regardless of age, or their authorized representative (AR) may apply for assistance. 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. BAM 255.

An authorized representative must be:

- An adult child or stepchild.
- A specified relative, see [BEM 135](#).
- Designated in writing by the client.
- Court appointed.
- A representative of an institution (such as jail or prison) where the client is in custody.

In this case, Claimant's sister is a specified relative and according to policy may apply for Claimant's MA benefits after he is deceased. Moreover, the departmental representative was unable to point to any policy that instructed the department to

withdraw an application without properly processing it. As a result, the department improperly withdrew Claimant's MA application without processing it.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department improperly processed Claimant's Medicaid application by withdrawing it and the department's decision withdrawing and hence denying Claimant's MA is REVERSED. The department SHALL properly process Claimant's MA application in accord with all applicable policies retroactive to the application date of February 28, 2011.

It is SO ORDERED.

/s/ _____
Vicki L. Armstrong
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 7/5/11

Date Mailed: 7/5/11

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.

VLA/ds

