

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2011-40023
Issue No.: 2000
Case No.: [REDACTED]
Hearing Date: October 31, 2011
Macomb County DHS (36)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, MCL 400.37, and Michigan Admin Code Rule 400. 919 upon an Order Vacating Denial for Reconsideration/Rehearing and Order Granting Rehearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on Monday, October 31, 2011. The Claimant did not participate in the hearing process. [REDACTED]

[REDACTED] appeared on behalf of the Claimant. [REDACTED] appeared on behalf of the Department of Human Services ("Department").

ISSUE

Whether the March 10, 2010 Request for Hearing submitted on behalf of the Claimant was valid?

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 or about October 2, 2009, the Department denied Medicaid ("MA") for the Claimant for June 2009.
2. On March 1, 2010, a Request for Hearing was submitted by the Senior Billing Associate ("Provider") on behalf of the Claimant seeking Medicaid ("MA") coverage for June 2009.
3. On May 17, 2010, the Michigan Administrative Hearing System ("MAHS"), formerly the State Office of Administrative Hearings and Rules ("SOAHR") sent a

letter to Claimant/Provider raising the issue of whether the Representative had proper authorization to represent the Claimant.

4. On August 9, 2010, the Claimant signed a letter authorizing the Provider to represent her regarding the June 2009 MA coverage.
5. On November 2, 2010, MAHS sent a letter to the Claimant/Provider raising the issue of the March 2010 request for hearing's timeliness.
6. On December 9, 2010, a hearing was held resulting in a January 19, 2011, Decision and Order reversal of the Department's denial of benefits.
7. On February 10, 2011, MAHS received the Department's Request for Rehearing/Reconsideration.
8. On March 24, 2011, the Request for Reconsideration/Rehearing was denied as untimely.
9. On July 19, 2011, an Order Vacating Denial for Reconsideration/Rehearing and Order Granting Rehearing was entered.
10. On October 31, 2011, the Rehearing was held resulting in this Decision and Order.

CONCLUSIONS OF LAW

The Medical Assistance 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. Departmental policies are found in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Bridges Reference Manual ("RFT").

Application for MA benefits may be made on behalf of a client by the spouse, parent, legal guardian, adult child, stepchild, specified relative, or any other person provided the person is at least age 18 or married. BAM 100. If the 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 100. The application form must be signed by the client or the individual acting as the Authorized Representative ("AR").

Any person, regardless of age, or his authorized representative, may apply for assistance. BAM 110. An AR is a person who applies for assistance on behalf of the

client and/or otherwise acts of his behalf. BAM 110. For MA purposes, an AR must be an adult child or stepchild; a specified relative; designated in writing by the client; court appointed; or a representative of an institution (such as jail or prison) where the client is in custody. BAM 110.

An AR is **not** the same as an authorized hearings representative (“AHR”). BAM 110. An AHR is defined as the “person who stands in or represents the client in the hearing process **and** has the legal right to do so.” BAM 110. This right is derived from the following sources:

- (a) written authorization, signed by the client, giving the person the authority to act for the client in the hearing process;
- (b) court appointment as a guardian or conservator;
- (c) the representative’s status as legal parent of a minor child;
- (d) the representative’s status as attorney at law for the client; or
- (e) for MA only, the representative’s status as the client’s spouse, or the deceased client’s widow or widower, only when no one else has the authority to represent the client’s interest in the hearing process.

An AHR must be authorized, or have made an application through probate court **before** signing a hearing request for the client. BAM 600.

In this case, in October 2009, the Department denied MA benefits for June 2009. In March 2010, a Request for Hearing was received from the Provider more than 90 days from the denial of benefits. In response, letters were generated by MAHS raising the issues of proper authorization to represent the Claimant and the timeliness of the hearing request. In August 2010, a letter was signed by the Claimant authorizing the Provider to represent her regarding the June 2009 MA coverage. Ultimately, at the time the Request for Hearing was received, regardless of the timeliness issue, the Claimant had not designated in writing that the Provider was authorized to represent her in the hearing process. As discussed above, only an AHR, as opposed to an AR, may request a hearing on behalf of a Claimant. In March 2010, the Provider was not an AHR. An AHR must be authorized, or have made an application through probate court before signing a hearing request for the client/decendent. This was not done. The Claimant did not appoint the Provider as the AHR until August 2010, well after the Request for Hearing was received.

In light of the foregoing, it is found that at the time the March 2010 Request for Hearing, the Provider was not an AHR and, thus, lacked the requisite authority to request a hearing on behalf of the Claimant. Accordingly, due to the lack of proper authority, the March 2010 Request for Hearing is DISMISSED.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, finds that the Provider was not the AHR and, thus, lacked the legal authority to Request a Hearing on behalf of the Claimant; therefore, it is improper to decide the underlying matter in dispute.

Accordingly, it is ORDERED:

The March 2010 Request for Hearing is DISMISSED.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: November 2, 2011

Date Mailed: November 2, 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.

CMM/cl

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