

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

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]

Reg. No. 2011-25394
Issue No. 2000
Case No. [REDACTED]
Hearing Date: June 28, 2011
Emmett County DHS

ADMINISTRATIVE LAW JUDGE: William A. Sundquist

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 June 28, 2011.

ISSUE

Was claimant's son authorized to represent her at the hearing?

FINDINGS OF FACT

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

1. Claimant was absent from the scheduled hearing on June 28, 2011.
2. Her son wanted to represent the claimant without written authority from the claimant, nor authorization by court or competent jurisdiction.

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).

Facts above are undisputed.

The person who stands in for or represents the claimant in the hearing process and has the legal right to do so. The right comes from one of the following sources:

- . Written authorization, signed by the claimant, giving the person authority to act for the client in the hearing process.
- . Court appointment as a guardian or conservator.
- . The representative's status as legal parent of minor child.
- . The representative's status as attorney at law for the client.
- . **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 authority to represent the client's interest in the hearing process. PRG Glossary, page 4.

Therefore, based on the above undisputed facts and the DHS policy requirements, the claimant's son had no legal authority to represent the absent claimant at the hearing.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that claimant's son was not authorized to represent her at the hearing.

Accordingly, the Medicaid Divestment is **UPHELD**, and the hearing request is **DISMISSED**.

William A Sundquist

William A. Sundquist
Administrative Law Judge
For Maura D. Corrigan, Director
Department of Human Services

Date Signed: July 8, 2011

Date Mailed: July 11, 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.

WAS/tg

cc:

