

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2012-55409

[REDACTED]

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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 held on [REDACTED] appeared on claimant's behalf. However, before the record began it was determined that claimant died [REDACTED] is not the Authorized Hearings Representative and does not have Probate court authorization to proceed in this case.

ISSUE

Whether L&S Associates can act as an Authorized Representative or Authorized Hearings Representative in this case?

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 [REDACTED], claimant applied for Medical Assistance and Retroactive Medical Assistance benefits alleging disability.
2. Medical information was received and forwarded to the Medical Review Team.
3. On [REDACTED], the Medical Review Team denied claimant's application for Medical Assistance and Retroactive Medical Assistance stating that claimant could perform prior relevant work.
4. On [REDACTED], an application eligibility notice was generated and sent to [REDACTED] stating that Medical Assistance benefits were denied by the Medical Review Team.

5. On [REDACTED] filed a request for a hearing to contest the department's negative action.
6. Claimant died on [REDACTED].

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. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R 400.903(1). 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 of that decision. 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 Program Reference Manual (PRM).

In the instant case, L&S Associates is not an authorized representative/authorized hearings representative for claimant. Claimant's request for a hearing is hereby **DISMISSED** because L & S Associates did not have authorization to act on behalf of the deceased. An authorization to represent a person may be revoked at any time by the person who gave the authorization. When the person who gave the authorization dies, the authorization ends at the time of the death. A dead person can neither give nor revoke, nor affirm authorization. There is no such thing as authorization to act for a dead person. After death, the person does not exist as a legal entity so no one can represent the person. This is Michigan law, MCL 700.497 and MCL 700.5504.

An estate of a dead person may be created to handle the remaining business or financial concerns that were outstanding at the time of the person's death. Only a probate court can create a decedent's estate. The court will also appoint someone to act as a personal representative of the estate. For the Medicaid program only, a widow or widower may act as a representative on the Medicaid plan without probate court authorization. L & S Associates could not provide a probate court order or court-issued letter of authority naming her or another person as a personal representative of the estate. Therefore, an administrative hearing must be **DISMISSED**.

An authorized hearings representative is the person who stands in for or represents the client in the hearings process and has the legal right to do so. This right comes from one of the following sources:

- . written authorization, signed by the client, giving the person authority to act for the client in the hearings process.
- . court appointment as a guardian or conservator
- . the representative status as a legal parent of a minor child
- . the representative status of an attorney at law for the client, and

For MA only:

- . the representative 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 interests in the hearings process. An authorized hearing representative has no right to a hearing, but rather exercises the client's right. Someone who assists, but does not stand in for or represent the client in the hearings process need not be an authorized hearing representative. Stands in for means the authorized hearing representative does whatever the client could do if the client were not represented. (BPG Glossary, p. 4)

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, determines that L&S Associates is neither an authorized representative nor an authorized hearing representative for purposes of this case.

Accordingly, the hearing request is hereby **DISMISSED**.

/s/ _____
Landis Y. Lain
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: [REDACTED]

Date Mailed: [REDACTED]

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.

LYL/jk

cc:



MAHS