

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2012-36552
Issue No: 2000

[REDACTED]

ADMINISTRATIVE LAW JUDGE: [REDACTED]

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]. Claimant did not appear at the hearing. An [REDACTED] appeared as a representative for [REDACTED], but not on behalf of claimant.

ISSUES

Whether Attorney Eugene Hamlin had the legal authority to act as an 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 filed an application for Medical Assistance Long Term Care.
2. The department caseworker processed the application and determined that claimant had excess assets.
3. On or about [REDACTED], the department caseworker sent claimant notice that her application was denied.
4. On [REDACTED], claimant filed a request for a hearing to contest the department's negative action.

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, there is no evidence in the record that Attorney Hamlin possessed a valid Authorization of Represent or Durable Power of Attorney, which authorized him to make appear on claimant's behalf. Thus, for purposes of this hearing, Attorney Hamlin is not an authorized hearings representative for claimant. Claimant's request for a hearing is hereby **DISMISSED** because no one with authorization to represent appeared on claimant's behalf

Department policy dictates that an authorized representative is a person who applies for assistance on behalf of a client or otherwise acts on his or her behalf. BAM, Item 110, p. 7. An authorized representative is not the same as an authorized hearings representative. The authorized representative assumes all the responsibilities of a client. 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. The application form must be signed by the client or the individual acting as his authorized representative. (BAM Item, page 9)

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. (BEM Item 110)

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)

Attorney Hamlin has established no standing or authority to represent claimant at this hearing. No one with authority to represent appeared to testify at this hearing. The request for a hearing must be dismissed and the department's actions must be upheld.

DECISION AND ORDER

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

Accordingly, the hearing request is hereby **DISMISSED** and the department's actions must be **AFFIRMED**. So ORDERED.

/s/ _____
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: _____

Date Mailed: _____

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