

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201252337
Issue No: 2000
Case No: [REDACTED]
Hearing Date: July 3, 2012
Delta County DHS

ADMINISTRATIVE LAW JUDGE: William A. Sundquist

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37; upon claimant's request for a hearing filed on March 13, 2012. After due notice, a telephone hearing was held on Tuesday, July 3, 2012. Claimant was represented at the hearing by [REDACTED] ([REDACTED]) who appeared as the authorized hearings representative.

ISSUES

1. Whether Claimant's Attorney had the legal authority to act as an authorized hearings representative in this case?

FINDINGS OF FACT

1. On October 31, 2011, a MA-P (LTC) application was filed on behalf of Claimant by her [REDACTED] (DPOA).
2. The [REDACTED] employed an [REDACTED] to represent the Claimant in the processing of application.
3. On December 2, 2011, Claimant [REDACTED].
4. On December 15, 2011, the Department of Human Services (DHS) denied the application based on noncompliance with verification requirements.
5. On March 13, 2012, the [REDACTED] requested a hearing without [REDACTED] of [REDACTED] from a [REDACTED] as the Authorized Hearings Representative (AHR).

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 (BAM), the Program Eligibility Manual (BEM) and the Program Reference Manual (PRM).

Facts above are undisputed.

The appointment of an authorized hearing representative (AHR) must be made in writing. An AHR must be authorized or have made application through [REDACTED] **before** signing a hearing request for the Claimant. BAM 600, Page 2.

Under Michigan law, all rights and authority granted by a [REDACTED] end at the death of the principal.

- The [REDACTED] retains sole and exclusive jurisdiction over decedent estates. MCL 700.1302.
- A patient advocate designation ends with the death of a principal. MCL 700.5510.
- A [REDACTED] designation ends with knowledge of death of the principal. MCL 700.5504.

After [REDACTED], 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 [REDACTED] of a [REDACTED] may be created to handle the remaining business or financial concerns that were outstanding at the time of the [REDACTED]. Only a [REDACTED] can create a [REDACTED]. The court will also appoint someone to act as a personal representative of the [REDACTED].

The [REDACTED], in this case, who had represented the Claimant before her [REDACTED] could not provide a [REDACTED] or [REDACTED] naming him or another person as a personal representative of the [REDACTED]. Therefore, the administrative hearing must be DISMISSED.

Based on the undisputed facts and DHS policy above, the [REDACTED] had no legal standing as the AHR on behalf of Claimant's [REDACTED] at the time of requesting a hearing nor at a hearing.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law, determines that Claimant's [REDACTED] is not an authorized hearing representative for purposes of this case.

Accordingly, MA-P denial is **UPHELD** and the hearing request is hereby **DISMISSED**. It is so ORDERED.

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

Date Signed: August 20, 2012

Date Mailed: August 20, 2012

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/tb

cc:

[REDACTED]