

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201261736
Issue No.: 2004
Case No.: [REDACTED]
Hearing Date: March 25, 2014
County: Shiawassee County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION PURSUANT TO CIRCUIT COURT REMAND

After due notice, a telephone hearing was held on March 17, 2011, from Lansing, Michigan, pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. On April 12, 2011, a Hearing Decision was issued dismissing the Claimant's hearing request and upholding the Department's denial of her application for assistance. On September 15, 2011, the Michigan Administrative Hearing System (MAHS) dismissed the Claimant's request for reconsideration.

On February 2, 2012, the [REDACTED], Circuit Court Judge for Shiawassee County, entered a Stipulated Order To Remand and Dismiss Petition For Review, which remanded the matter back to the Michigan Administrative Hearing System (MAHS), specifically ordering the following:

On stipulation of the parties, the son of Petitioner's decedent, [REDACTED] applied in June 2010 for Medicaid coverage for [REDACTED] in accordance with Respondent's policies. Treating the request for hearing as appropriately filed under those policies, this matter is hereby REMANDED to the Michigan Administrative Hearing System to determine whether Petitioner's decedent, [REDACTED] was eligible for Medicaid coverage for the month of March 2010. It is further ordered that the Petitioner for Review is hereby DISMISSED. This is a final order that disposes of all outstanding claims.

After due notice, a telephone hearing was held on March 25, 2014, from Lansing Michigan. Participants on behalf of Claimant included [REDACTED], [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED] and [REDACTED].

ISSUE

Whether the Department of Human Services (Department) properly processed the Claimant's Medical Assistance (MA) application?

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 March 20, 2010, the Claimant died.
2. On June 11, 2010, the Claimant's adult son submitted an application for Medical Assistance (MA) to the Department on behalf of the Claimant.
3. On August 25, 2010, the Department denied the March 20, 2010, Medical Assistance (MA) application.
4. The Department failed to determine whether the Claimant is eligible for Medical Assistance (MA).
5. The Department received a hearing request submitted by [REDACTED], on October 20, 2010, protesting the denial of the October 20, 2010, Medical Assistance (MA) application.
6. On November 3, 2010, [REDACTED] obtained authority to represent the Claimant's estate through the Shiawassee Probate Court.
7. On April 12, 2011, Michigan Administrative Hearing System (MAHS) dismissed the October 20, 2010, request for a hearing for lack of authority of [REDACTED], to represent the Claimant.
8. On May 12, 2011, [REDACTED] submitted a request for reconsideration.
9. On September 15, 2011, the Michigan Administrative Hearing System (MAHS) denied the Claimant's request for a rehearing/reconsideration.
10. On October 11, 2011, [REDACTED], submitted a Claim of Appeal to the 35th Judicial Circuit Court of Shiawassee County.
11. On February 2, 2012, the Department, represented by the Office of the Attorney General, and [REDACTED] acting as Authorized Hearings Representative for the Claimant, stipulated to remand the case for a hearing before the Michigan Administrative Hearing System (MAHS) to determine whether the Claimant was eligible for Medical Assistance (MA) coverage for the month of March 2010.
12. On December 28, 2012, the Michigan Administrative Hearing System (MAHS) ordered reinstatement of the Claimant's Medical Assistance (MA) application in preparation for and scheduling of a hearing.
13. On February 21, 2014, the Michigan Administrative Hearing System (MAHS) ordered an administrative hearing to address the issue of the Claimant's eligibility for Medical Assistance (MA).

CONCLUSIONS OF LAW

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act, 42 USC 1396-1396w-5, and is implemented by 42 CFR 400.200 to 1008.59. The Department of Human Services (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10 and MCL 400.105.

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. The Michigan Administrative Hearing System (MAHS) may grant a hearing for any of the following:

MAHS may grant a hearing about any of the following:

- Denial of an application and/or supplemental payments.
- Reduction in the amount of program benefits or service.
- Suspension or termination of program benefits or service.
- Restrictions under which benefits or services are provided.
- Delay of any action beyond standards of promptness.
- For FAP only, the current level of benefits or denial of expedited service. Department of Human Services Bridges Administrative Manual (BAM) 600 (March 1, 2014), p 4.

A request for hearing must be in writing and signed by the claimant, petitioner, or authorized representative. Rule 400.904(1). Moreover, the Department of Human Services Bridges Administrative Manual (BAM) 600 (March 1, 2014), p. 5, provides in relevant part as follows:

The client or authorized hearing representative has *90 calendar days from the date of the written notice of case action to request a hearing*. The request must be received anywhere in DHS within the 90 days. [Emphasis added.]

On August 25, 2010, the Department denied the Claimant's June 11, 2010, application for Medical Assistance (MA) for lack of authorization to request benefits. Based on its finding that the Claimant's son lacked the authority to apply for Medical Assistance (MA) on behalf of the Claimant, the Department failed to make an eligibility determination.

This denial of an application for benefits was appealed to the Michigan Administrative Hearing System (MAHS) by L & S Associates, Inc. and this request for a hearing was dismissed on April 12, 2011. On February 2, 2012, the Department stipulated to remand for a hearing before the Michigan Administrative Hearing System (MAHS) to determine whether the Claimant was eligible for Medical Assistance (MA) coverage for

the month of March 2010. On December 28, 2012, the Michigan Administrative Hearing System (MAHS) ordered reinstatement of the Claimant's Medical Assistance (MA) application in preparation for and scheduling of a hearing. On February 21, 2014, the Michigan Administrative Hearing System (MAHS) ordered an administrative hearing to address the issue of the Claimant's eligibility for Medical Assistance (MA).

Any person, regardless of age, or his/her authorized representative (AR) may apply for assistance. An authorized representative (AR) is a person who applies for assistance on behalf of the client and/or otherwise acts on his behalf (e.g., to obtain FAP benefits for the group). An AR is not the same as an Authorized Hearings Representative (AHR). When no one in the group is able to make application for program benefits, any group member capable of understanding AR responsibilities may designate the AR. The AR assumes all the responsibilities of a client. Department of Human Services Bridges Administrative Manual (BAM) 110 (July 1, 2010), pp 4-8.

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 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. BEM 110, p 8.

An authorization to represent is a form of a power of attorney. When a person who gave the authorization dies, the power of attorney ends. After death, the person does not exist as a legal entity, so no one can represent the person. BEM 110, p 10.

An authorized representative (AR) is a person who makes application or provides eligibility information on behalf of a client. For MA purposes, an authorized representative must be an adult child or stepchild, a specified relative, designated in writing by the client or court appointed. Department of Human Services Bridges Policy Glossary (BPG) (July 1, 2010), p 5.

An authorized hearings representative (AHR) is a person who stands in for or represents the client in the hearing 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 hearing process.
- Court appointment as a guardian or conservator.
- The representative's status as legal parent of a 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 interests in the hearing process. BPG, pp 4-5.

An AHR 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 hearing process need NOT be an AHR. Note: "Stands in for" means the AHR does whatever the client could do if the client were not represented. For example, when the client has an AHR, the AHR must sign a hearing request withdrawal, not the client. BPG, pp 4-5.

On March 20, 2010, the Claimant died. On June 11, 2010, the Claimant's adult child submitted an application for Medical Assistance (MA) to the Department on behalf of the Claimant. This application for assistance was submitted by a person with the authority to submit an application for Medical Assistance (MA) on behalf of the Claimant (adult child), therefore a signed authorization to act on behalf of the Claimant was not necessary.

Having the authority to submit an application for Medical Assistance (MA), the Claimant's adult child also had the authority to seek guidance with the application process.

This Administrative Law Judge finds that the Claimant's adult child had the authority to submit an application on behalf of the Claimant on June 11, 2010. The Department had a duty to register this application for assistance and process the application as directed by BAM 110.

Based on the evidence and testimony available during the hearing, this Administrative Law Judge finds that the Department was not acting in accordance with policy when it denied the Claimant's June 11, 2010, application for Medical Assistance (MA) for lack of authority to represent.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it denied the Claimant's June 11, 2010, application for Medical Assistance (MA) for lack of authority.

Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Enter [REDACTED], as the Claimant's Authorized Representative (AR) as directed by the Claimant's adult son, Ian Jones (a person with the authority to apply for benefits) into the Claimant's benefits case file.
2. Process the Claimant's June 11, 2010, application for assistance in accordance with policy and Initiate a determination of the Claimant's eligibility for Medical Assistance (MA).

3. Provide the Claimant with a Notice of Case Action (DHS-1605) describing the Department's revised eligibility determination.
4. Issue the Claimant any retroactive benefits she may be eligible to receive, if any.



Kevin Scully
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: April 8, 2014

Date Mailed: April 8, 2014

NOTICE OF APPEAL: The claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely Request for Rehearing or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

Michigan Administrative Hearing System (MAHS) 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. MAHS 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 (60 days for FAP cases).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

201261736/KS

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

KS/hj

cc:

