

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-005585
Issue No.: 2001
Case No.: [REDACTED]
Hearing Date: September 04, 2014
County: MONTCALM

ADMINISTRATIVE LAW JUDGE: Carmen Fahie

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge 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. After due notice, telephone hearing was held on Thursday, September 4, 2014, from Lansing, Michigan. Participants on behalf of Claimant included the Claimant's authorized representative, [REDACTED], from [REDACTED], since the Claimant is deceased. Participants on behalf of the Department of Human Services (Department) included [REDACTED].

ISSUE

Did the Department properly deny Claimant's application for Medical Assistance (MA)?

FINDINGS OF FACT

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

1. Claimant applied for MA benefits.
2. On May 6, 2014, the Department denied Claimant's application due to the application not being signed by Cheryl Rewerts so it is incomplete and DHS not receiving any proof from a probate court that an estate has been created.
3. On May 6, 2014, the Department sent Claimant/Claimant's Authorized Representative (AR) its decision.
4. On June 9, 2014, Claimant/Claimant's Authorized Hearing Representative (AHR) filed a hearing request, protesting the Department's actions.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), and Department of Human Services Reference Tables Manual (RFT).

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.

Additionally, In this case, the Claimant died on February 3, 2014. Department Exhibit 43. On [REDACTED], the [REDACTED], from L&S, as the personal representative of the Claimant through Letters of Authority for Personal Representative, PC-572. Department Exhibit 38. In addition, [REDACTED] gave authority to represent and release to [REDACTED]. Department Exhibit 39-40. On [REDACTED] S applied for MA and retroactive MA to January 2014 that included the Letters of Authority for Personal Representative, authorization to represent, and release. Department Exhibit 37, 39-62. On April 29, 2014, the Department Caseworker sent [REDACTED] that the application was incomplete because it needed to be signed by spouse of the deceased party or the deceased person herself. Department Exhibit 63.

BAM 110, APPLICATION FILING AND REGISTRATION, pages 10-12. Medicaid Only

Application may be made on behalf of a client by his spouse, parent, legal guardian, adult child, stepchild, core 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 core relative, the person must have 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.

When an assistance application is received in the local office without the applicant's signature or without a signed document authorizing someone to act on the applicant's behalf you must do the following:

Register the application as a request if it contains a signature.

Send a DHS-330, Notice of Missing Information, to the individual explaining the need for a valid signature. The signature page of the application may be copied and sent to the agency or individual who filled out the application with the notice.

Allow 10 days for a response. You cannot deny an application due to incompleteness until 10 calendar days from the date of your initial request in writing to the applicant to complete the application form or supply missing information, or until the initial scheduled interview.

Record the date the application or filing form with the minimum information is received. The application must be registered and disposed of on Bridges, using the receipt date as the application date.

An application received from an agency is acceptable if it is signed by an individual and is accompanied by written documentation from the individual authorizing the agency to act as the authorized representative.

Note: If unrelated adults living in the same home apply for assistance, neither has the authority to act on the other's behalf without written permission from the applicant.

Authorized Representative
Medicaid Only

An authorized representative must be one of the following:

An adult child or stepchild.

A core relative.

Designated in writing by the individual.

Court appointed.

A representative of an institution (such as jail or prison) where the individual is in custody.

Persons Providing Medical Care
Medicaid Only

Persons who provide medical care to the client, or their agents, should **not** act for the client when there is a relative, guardian or friend who is willing and able to act. If a court has appointed a guardian for a client's estate (such as income and assets), the guardian is usually expected to act for the client.

Exception: An application may be made for newborns surrendered under the Safe Delivery Law, (MCL 712.1-712.20) by the provider hospital, child-placing agency, court appointed lawyer-guardian ad litem or prospective adoptive parent.

A department employee may apply on behalf of a member of the employee's family or a child committed to, or placed with, the department by court order.

Note: 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. However, if a person dies while the application is pending, the application should be processed.

An estate may be created to handle the remaining business and financial issues that were outstanding at the time of death. Only a probate court can create a decedent's estate. The court will also appoint someone to act as a representative of the estate.

A court, agency or guardian **legally** responsible for a client must be identified as an authorized representative (AR) by Type on Bridges.

This Administrative Law finds that [REDACTED] did have authority to represent the Claimant from the probate court. [REDACTED] a copy of the Letters of Authority for Personal Representative, PC 572 with their application submitted on [REDACTED], 2014. The Department should have processed the application. [REDACTED] had the authority to sign the application from the Letters of Authority provided by the [REDACTED] and submitted to the Department along with the application on [REDACTED].

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it failed to process the Claimant's application submitted [REDACTED] for MA with a retroactive application to [REDACTED] 2014.

DECISION AND ORDER

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. Initiate a redetermination of the Claimant's eligibility for MA by re-registering and reprocessing the original application for MA dated [REDACTED] with retroactive benefits to January 2014.

2. Provide the Claimant's authorized representative with written notification of the Department's revised eligibility determination.
3. Issue the Claimant any retroactive benefits she/he may be eligible to receive, if any.

Carmen H. Fahie

Carmen Fahie
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: **10/1/2014**

Date Mailed: **10/2/2014**

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

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

CGF / tb

cc:

