

**BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA**

IN RE M [REDACTED] G [REDACTED]
[REDACTED],
Petitioner.

*Petition for Direct Appeal to the Georgia
Office of State Administrative Hearings*

Docket No.: [REDACTED]
[REDACTED]-OSAH-DIRECT APPEAL-
PET_M-67-Boggs



ORDER DENYING PETITION FOR DIRECT APPEAL

On March 29, 2022, a Petition for Direct Appeal in a purported Medicaid contested case was filed with this Court on behalf of M [REDACTED] G [REDACTED]. The petition was submitted by Mikki K. Ervin, who identified Change Healthcare as Ms. G [REDACTED]'s authorized representative. That same day, the Court ordered the Department of Human Services, Division of Family and Children Services (“DFCS”) to respond to the petition within ten (10) business days.

On March 30, 2022, DFCS submitted its response in opposition to the petition. DFCS concedes that it received a hearing request submitted by Change Healthcare on behalf of Ms. G [REDACTED] on February 21, 2022, as stated on the Petition for Direct Appeal. However, DFCS asserts it did not refer the hearing request to this Court because it never received confirmation that Ms. G [REDACTED] had authorized Change Healthcare to represent her in this Medicaid matter. Specifically, DFCS contends that the “Appointment of Representative” form accompanying the hearing request was signed by someone other than Ms. G [REDACTED], named “A [REDACTED].” DFCS further states it emailed Ms. Ervin at Change Healthcare on February 14, 2022 to get proper authorization, but never received a response.

Upon review, the Court concludes that not enough evidence exists at this time to establish that Ms. G [REDACTED] has authorized either Change Healthcare or Ms. Ervin to represent her in the underlying Medicaid matter.

Under federal regulations, Medicaid applicants and beneficiaries are allowed to designate an individual or organization to act on their behalf. 42 C.F.R. §§ 435.923(a)(1), (b). Designation of this authorized representative requires the “applicant’s signature,” which can be electronic, telephonically recorded, or handwritten. 42 C.F.R. §§ 435.923(a)(1), (f). Other authority as provided by state law—including but not limited to a court order establishing legal guardianship or a power of attorney—also shall serve as a written designation of authorized representation in Medicaid matters. 42 C.F.R. § 435.923(a)(2).¹ Federal regulations further state that **only** the applicant/beneficiary **or** an authorized representative may submit a request for a fair hearing in a Medicaid matter. 42 C.F.R. § 431.22(a)(1).

Here, the “Appointment of Representative” form signed by “A [REDACTED]” does not meet the requirements for establishing authorized representation under 42 C.F.R. § 435.923(a). It is clear from Ms. Ervin’s own statement to this Court that the “A [REDACTED]” signature comes from someone other than Ms. G [REDACTED].² Consequently, Change Healthcare cannot rely on that form alone as authorization to file a Medicaid hearing request on Ms. G [REDACTED]’s behalf. 42 C.F.R. § 431.22(a)(1).

Change Healthcare also provided the same “Appointment of Representative” form, signed by “A [REDACTED],” when filing its Petition for Direct Appeal with this Court. Again, what is missing is signed authorization from Ms. G [REDACTED] herself showing Change Healthcare could file a petition with this Court to pursue a fair hearing on her behalf. See 42 C.F.R. §§ 431.22(a)(1), (b).

¹ DFCS’s Medicaid Policy Manual echoes the federal regulations’ requirements for authorized representation. See DFCS Medicaid Policy Manual, Appendix B, available at <https://odis.dhs.ga.gov/> (last accessed March 31, 2022).

² When submitting the Petition for Direct Appeal, Ms. Ervin informed the Court that “A [REDACTED]” was Ms. G [REDACTED]’s daughter who assisted in completing the Medicaid application. (See Case File, Petition for Direct Appeal, attached email dated Mar. 29, 2022.) This statement was included with the petition provided to DFCS on March 29, 2022. (See Case File, Order for Agency Response, filed Mar. 29, 2022.) Even assuming this is true, A [REDACTED]’s signature would not meet the requirement under 42 C.F.R. §§ 435.923(a)(1), which specifically calls for the “*applicant’s* signature” when designating an authorized representative.

Thus, in the absence of the required authorization pursuant to 42 C.F.R. § 435.923, Change Healthcare lacks legal authority at this time to seek a Medicaid hearing on Ms. G [REDACTED]'s behalf. Accordingly, the Petition for Direct Appeal is **DENIED**.

However, this does **not** mean that Ms. G [REDACTED] is barred from ever seeking a hearing on a Medicaid matter before this Court. Ms. G [REDACTED] remains free to submit a hearing request to DFCS herself. Alternatively, Change Healthcare (or another individual or entity) can provide DFCS with the required authorization to represent Ms. G [REDACTED] in Medicaid matters, in accordance with 42 C.F.R. § 435.923.

SO ORDERED, this 4th day of April, 2022.

Lisa Boggs

Lisa Boggs
Administrative Law Judge

