

**UNITED STATES DISTRICT COURT
EASTERN DISTRICT OF MISSOURI
EASTERN DIVISION**

GEORGIA ANGELA HUNTER)
o/b/o A.N.H,)
)
Plaintiff,)
)
vs.)
)
MICHAEL J. ASTRUE,)
Commissioner of Social Security,)
)
Defendant.)

Case No. 4:10cv0161 TCM

MEMORANDUM AND ORDER

This matter is before the Court upon review of Plaintiff's complaint and the motion to proceed in forma pauperis.

From a review of the complaint, it appears that Ms. Georgia Hunter is seeking judicial review of a final decision denying disability benefits and/or supplemental security income benefits to her daughter, A.N.H. See 42 U.S.C. § 405(g). However, it is unclear whether A.N.H. is a minor and/or somehow incapacitated, such that Ms. Georgia Hunter may file an action on her behalf. If A.N.H. is a minor and/or somehow incapacitated, a civil action may be commenced and prosecuted only by a duly appointed guardian of such a plaintiff, or if there is no such guardian, by a next friend appointed by the Court. A petition for appointment of next friend has not been filed in this matter, and a next friend must be appointed if A.N.H. is a minor and/or incapacitated, in order for Ms. Georgia Hunter to proceed on A.N.H.'s behalf. Accordingly, the Court will order Ms. Hunter to file a petition for appointment of next friend. Failure to file such petition will result in this action being dismissed without prejudice.

Additionally, because Ms. Hunter used the court's generic complaint form and not the form specifically used for Social Security appeals, the Court will request that she amend her complaint on the proper court-provided form. Failure to do so will also result in a dismissal of this action without prejudice.

Accordingly,

IT IS HEREBY ORDERED that the Court will hold Ms. Hunter's motion to proceed in forma pauperis in abeyance until such time as she files a motion for appointment of next friend and an amended complaint.

IT IS FURTHER ORDERED that the Clerk of the Court shall mail to Ms. Hunter a copy of the court's form complaint for filing Social Security appeals.

IT IS FURTHER ORDERED that Ms. Hunter shall file an amended complaint in this action, on the court-provided Social Security complaint form, within thirty (30) days of the date of this Order.

IT IS FURTHER ORDERED that if A.N.H. is indeed a minor and/or incapacitated, Ms. Hunter shall file a petition for appointment of next friend, within thirty (30) days of the date of this Order, in order to commence and prosecute this action on A.N.H.'s behalf.

IT IS FINALLY ORDERED that Ms. Hunter's failure to comply with this Order may result in a dismissal of this action without prejudice.

Dated this 8th day of March, 2010.

/s/ Thomas C. Mummert, III
THOMAS C. MUMMERT, III
UNITED STATES MAGISTRATE JUDGE