

STATE OF MICHIGAN  
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE  
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED]

Claimant

Reg. No: 2008-24645

Issue No: 2010

Case No: [REDACTED]

Load No: [REDACTED]

Hearing Date:

August 25, 2009

Delta County DHS

ADMINISTRATIVE LAW JUDGE: Marlene B. Magyar

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on August 25, 2009. Claimant has since deceased; however, his interest was represented by longtime family counsel, [REDACTED]

ISSUE

Did the department and claimant's counsel fully resolve the disputed issue by binding settlement offer and agreement?

FINDINGS OF FACT

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

(1) Claimant was a long-term care resident at all times relevant to this dispute, with his entry date being July 19, 2007.

(2) On November 13, 2007, an MA long-term care application was filed on claimant's behalf.

(3) On April 9, 2008, the department issued notice of a divestment penalty based on the SEV of claimant's second property, which was gifted to claimant's disabled daughter in March 2008 (Department Exhibit #1, pg 84).

(4) Claimant's attorney promptly filed a hearing request and the hearing was held on August 25, 2009.

(5) At hearing, the department's witness stipulated departmental errors occurred in: (1) using the SEV rather than claimant's [REDACTED] in the property; and (2) omitting consideration of claimant's disabled daughter's one-third share when calculating the length of the divestment penalty at issue in this case.

(6) The department's witness offered to settle this dispute by correcting these errors and by recalculating the MA divestment penalty period with issuance of written notice to claimant's counsel of same.

(7) Claimant's counsel accepted the department's offer of settlement with retention of the right to file a new hearing request if he disputes the department's updated calculation.

#### 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 (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

The law, MCL 24.278(2); MSA 3.560(178)(2), provides that disposition may be made of a contested case hearing by stipulation or agreed settlement. Both parties have agreed to the settlement terms set forth above.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides claimant's counsel and the department entered into a valid, binding settlement agreement on the record at hearing.

Accordingly, this case is returned to the local office for implementation of the settlement terms. **SO ORDERED.**

/s/ \_\_\_\_\_  
Marlene B. Magyar  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: August 26, 2009

Date Mailed: August 27, 2009

**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 receipt 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.

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MBM/db

cc:

