

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

IN THE MATTER OF:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Reg. No. 2011-27777
Issue No. 2010
Case No. [REDACTED]
Hearing Date: June 30, 2011
Branch County DHS

ADMINISTRATIVE LAW JUDGE: William A. Sundquist

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on June 30, 2011.

ISSUE

Was divestment established?

FINDINGS OF FACT

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

1. Claimant applied for Medicaid (LTC) on March 11, 2011, was denied on March 16, 2011 per BEM 405, and requested a hearing on March 16, 2011.
2. On the application it was noted by the claimant's representative that \$2500 was gifted to each of her three sons; that two of her sons were given \$3,000 each to repay them for money that she had borrowed for her husband's funeral in 2001; and that \$12,000 was withdrawn from her savings account that was not accounted for, for a total amount of \$25,500.

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).

Facts above are undisputed.

Divestment means a transfer of a resource (see "RESOURCE DEFINED" below) by a client or his spouse that:

- . is within a specified time (see "LOOK-BACK PERIOD" below), and
- . is a transfer for "LESS THAN FAIR MARKET VALUE," and

Note: See "**Annuity Not Actuarially Sound**" and "**Joint Owners and Transfers**" below and PEM 401 about special transactions considered transfers for less than fair market value.

- . is not listed below under "TRANSFERS THAT ARE NOT DIVESTMENT." PEM, Item 405, p. 1.

RESOURCE DEFINED

Resource means all the client's and his spouse's assets and income. It includes assets and income the client or spouse were entitled to but did **not** receive because of action by:

- . the client or spouse, or
- . a person (including a court or administrative body) with legal authority to act in place of or on behalf of the client or his spouse, or
- . any person (including a court or administrative body) acting at the direction or upon the request of the client or his spouse. PEM, Item 405, p. 1.

Verification means document for action taken that provides evidence establishing the accuracy of statements in the case record. BGF Glossary, page 46.

The gifts of \$7,500 were transferred for less than fair market value, because the claimant received nothing in return for the same or similar value.

The repay of \$6,000 for a debt obligation was for fair market value. The problem here is that claimant had no written verification of this obligation created in 2001.

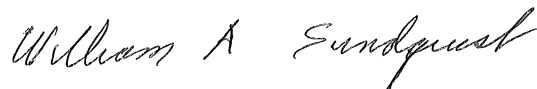
The \$12,000 are unaccounted for his claim for household expenses paid to her family and for/or relatives. But here, again, there is no written verification of these paid expenses.

Therefore, based on the DHS and the undisputed facts above, divestment in the amount of \$25,500 has been established.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that divestment was established.

Accordingly, Medicaid ineligibility for LTC is UPHELD.



William A. Sundquist
Administrative Law Judge
For Maura D. Corrigan, Director
Department of Human Services

Date Signed: July 22, 2011

Date Mailed: July 22, 2011

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 mailing 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.

WAS/tg

cc:

