

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2012-39936
Issue No.: 2000
Case No.: [REDACTED]
Hearing Date: September 6, 2012
County: Wayne (82)

ADMINISTRATIVE LAW JUDGE: Colleen M. Mamelka

SETTLEMENT ORDER

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Claimant's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on Thursday, September 6, 2012. The Claimant resides in a long-term care facility. [REDACTED] and [REDACTED] appeared on behalf of the Claimant. The Claimant was represented by [REDACTED]. Participating on behalf of the Department of Human Services ("Department") was [REDACTED].

ISSUE

Whether the Department properly imposed a divestment penalty?

FINDINGS OF FACT

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

1. The Claimant resides in a long-term care facility.
2. On January 10, 2012, the Department received a Medical Assistance ("MA") application on behalf of the Claimant.
3. On January 9, 2009, a \$75,000.00 promissory note was executed between the Claimant and her son with monthly payments of \$1,984.22 to commence on February 1, 2009.
4. On August 2, 2010, a \$17,500.00 land contract was executed between the Claimant and her daughter with monthly payments of \$308.59 beginning September 15, 2010.

5. On August 19, 2011, the land contract was assigned for the amount of \$10,500.00.
6. On September 20, 2011, the long-term care facility received payment of \$10,500.00 as a result of the assignment of the land contract.
7. On October 31, 2011, the promissory note was assigned for the amount of \$30,100.00.
8. On December 20, 2011, the long-term care facility received payment of \$30,100.00 as a result of the promissory note assignment.
9. On February 27, 2012, the Department notified the Claimant of the imposition of the divestment penalty.
10. On March 8, 2012, the Department received the Claimant's timely written request for hearing.

CONCLUSIONS OF LAW

Department policies are found in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual (BEM), the Reference Tables Manual ("RFT"), and the State Emergency Relief Manual ("ERM").

The Medical Assistance ("MA") program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations. The Department of Human Services, formerly known as the Family Independence Agency, administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The law provides that disposition may be made of a contested case by stipulation or agreed settlement. MCL 24.278(2).

In the present case, the Department imposed a divestment penalty as the result of two transfers; the first was a \$17,500.00 land contract entered into on August 2, 2010, and the second, a \$75,000.00 promissory note executed on January 9, 2009. Each instrument was ultimately assigned for fair market value resulting in the exact amount of the assignments being credited to the Claimant's charges at the long-term care facility. During the hearing and after review of the supporting documentation, the Department agreed that divestment had not occurred and agreed to remove the penalty. All parties were amenable to the resolution.

As a result of this settlement, Claimant no longer wishes to proceed with the hearing. As such, it is unnecessary for this Administrative Law Judge to render a decision regarding the facts and issues in this case.

DECISION AND ORDER

The Administrative Law Judge concludes that the Department and Claimant have come to a settlement regarding Claimant's request for a hearing.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING:

Remove, as agreed, the divestment penalty on the Claimant's MA case arising from the promissory note and land contract as discussed above.

Colleen M. Mamelka

Colleen M. Mamelka
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: September 25, 2012

Date Mailed: September 25, 2012

NOTICE: Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases)

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.

CMM/cl

cc:

[REDACTED]

Wayne County DHS (82)/DHS-1843

[REDACTED]

C.

Mamelka