

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 20135774
Issue No: 2010
Case No: [REDACTED]
Hearing Date: February 21, 2013
Muskegon County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Morris

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 February 21, 2013. The claimant did not appear, but was represented by her representative and power-of-attorney [REDACTED], who is also her son. Also testifying on behalf of the claimant was [REDACTED] Mark's wife, and [REDACTED], the claimant's daughter. The department witnesses were [REDACTED] and [REDACTED].

ISSUES

Did the department properly determine a divestment penalty applied to the claimant's Medical Assistance (MA) case?

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 was a recipient of Long Term Care (LTC) MA.
2. On May 17, 2012, the department received notice that the claimant's house had been sold for \$ [REDACTED].
3. The department determined that \$ [REDACTED] was divested.
4. A Notice of Case Action (DHS-1605) informing the claimant of such was mailed on October 2, 2012.
5. The claimant's representative submitted a hearing request on October 9, 2012.

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

MCL 24.278(2) provides a disposition may be made of a contested case by stipulation or agreed settlement. In this case, the claimant's representative provided copies of checks that [REDACTED] had written for taxes on the property in question and for lawyer fees concerning the property in question. The department workers verified that the amounts matched bills that were from the estate. Thus, the department agreed to recalculate the divestment amount and remove the presented check amounts from the total divestment penalty.

The claimant's representative and department agreed that this resolved the issue.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department has agreed to recompute the divestment penalty amount.

Accordingly, the department's actions are **REVERSED**. The department shall recalculate the divestment amount by removing the presented check amounts from the total divestment penalty. It is SO ORDERED.

/s/ _____
Suzanne L. Morris
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: February 25, 2013

Date Mailed: February 25, 2013

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.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
 - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at

Michigan Administrative hearings
Reconsideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

SLM/cr

cc:

