

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2013-9966
Issue No: 2010
Case No: [REDACTED]
Hearing Date: April 10, 2013
Alpena-Alcona 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 Wednesday; April 10, 2013. Claimant appeared and provided testimony on his behalf. Participants on behalf of the Department of Human Services (Department) included [REDACTED] and [REDACTED].

ISSUE

Was divestment correctly established?

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 applied for MA-P (and retro for July) on August 30, 2012, was denied on October 11, 2012 based on excess assets for July and divestment of a motor vehicle on August 22, 2012 in the amount of \$ [REDACTED] with a penalty period of 13 days beginning August 14, 2012.
2. Claimant's representative did not disagree with the retro-July ineligibility.
3. On August 22, 2012 the representative transferred the above vehicle to the Claimant's daughter for no payment.
4. On September 12, 2012 the vehicle was appraised by a car dealer for \$ [REDACTED]
5. On September 27, 2012 the representative submitted a vehicle appraisal to the DHS.
6. After the above transfer, the daughter spent \$ [REDACTED] in vehicle repairs.

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 Bridges Reference Manual (BRM).

Facts above are undisputed.

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Divestment means a transfer of a resource by a client for less than fair market value. BEM 405, Pg. 1.

The Claimant established a third party (car dealer ship) verification value of the transferred car for \$ [REDACTED]. The Claimant's representative argues that the \$1000 should not have been counted by the DHS because the transferee had to spend \$1200 to repair the car. This is an equitable argument and this ALJ has no equitable powers.

What the Claimant's representative should have done was to have contacted the DHS before the car transfer for DHS policy information on how to financially follow the DHS policy requirements.

Therefore, the Claimant has not sustained her burden of proof to establish that the divestment decision was incorrect.

DECISION AND ORDER

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

Accordingly, MA-P approval with a thirteen day divestment period is **UPHELD** and so ORDERED.

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

Date Signed: April 26, 2013

Date Mailed: April 29, 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.

WAS/hj

cc:

