

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2014-19183
Issue No(s): 2008
Case No.: [REDACTED]
Hearing Date: May 15, 2014
County: Grand Traverse

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 7 CFR 273.15 to 273.18; 42 CFR 431.200 to 431.250; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, an in person hearing was held on May 15, 2014, from Traverse City, Michigan. Participants on behalf of Claimant included Claimant's [REDACTED] and [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED]. [REDACTED] also participated by telephone on behalf of the Department.

ISSUE

Did the Department properly determine the value of Claimant's real estate and the amount of divestment?

FINDINGS OF FACT

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

1. The Department issued a notice of case action dated September 19, 2013 determining that "As was established in the case record by client's [REDACTED] real estate parcel in question at the time of application was \$ [REDACTED]. This analysis results in no changes to the case."
2. Claimant requested hearing on December 17, 2013, stating the following: "The divestment penalty period calculation in the case action dated 9/19/2013 (updated 10/24/2013) is contrary to Medicaid policy and the hearing decision dated May 3, 2013 because it does not account for resources received by claimant in exchange for the transfer at issue, as required by BEM 405 and by the hearing decision dated May 3, 2013."

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The Medical Assistance (MA) program is established by Title XIX of the Social Security Act, 42 USC 1396-1396w-5; 42 USC 1315; the Affordable Care Act of 2010, the collective term for the Patient Protection and Affordable Care Act, Pub. L. No. 111-148, as amended by the Health Care and Education Reconciliation Act of 2010, Pub. L. No. 111-152; and 42 CFR 430.10-.25. The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Uncompensated Value

The uncompensated value of a divested resource is the resource's cash or equity value. Minus any compensation received. The uncompensated value of a promissory note, loan, or mortgage is the outstanding balance due on the "Baseline Date" BEM 405

Additionally, Claimant's attorney is attempting to re-argue issues that were already addressed in the previous decision and order dated June 3, 2013. This Administrative Law Judge held that divestment occurred and remanded the issue regarding valuing the property. The Department determined that the value of the real estate parcel at the time of application was \$ [REDACTED] based on the information contained in the record and pursuant to BEM 400. The issues that Claimant's attorney raised at hearing regarding uncompensated value were addressed in the previous Decision and Order and remain unpersuasive.

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it determined that the value of the real estate parcel in question was \$ [REDACTED] and no further changes to the case were required.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.



Aaron McClintic
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 7/1/14

Date Mailed: 7/1/14

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides or has its principal place of business in the State, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

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

AM/tb

cc:

