

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

**IN THE MATTER OF:**



Reg. No.: 13-000237-R  
Old Reg. No.: 2012-40749  
Issue No.: 2008  
Case No.: [REDACTED]  
Hearing Date: July 26, 2012  
County: Schoolcraft

**ADMINISTRATIVE LAW JUDGE:** Vicki Armstrong

**DECISION AND ORDER OF RECONSIDERATION/REHEARING**

This matter is before the undersigned Administrative Law Judge (ALJ) pursuant to the Claimant's Authorized Hearing Representative timely filed a Request for Rehearing/Reconsideration of the Hearing Decision generated by the assigned Administrative Law Judge (ALJ) at the conclusion of the hearing conducted on July 26, 2102, and mailed on May 7, 2013, in the above-captioned matter.

The Rehearing and Reconsideration process is governed by the Michigan Administrative Code, Rule 400.919, *et seq.*, and applicable policy provisions articulated in the Bridges Administrative Manual (BAM), specifically BAM 600, which provide that a rehearing or reconsideration must be filed in a timely manner consistent with the statutory requirements of the particular program or programs that is the basis for the claimant's benefits application, and **may** be granted so long as the reasons for which the request is made comply with the policy and statutory requirements.

This matter having been reviewed, an Order Granting Reconsideration was mailed on December 4, 2014.

**ISSUE**

Did the Administrative Law Judge (ALJ) err when she found the Department properly determined that Claimant had divested herself of assets and imposed a penalty period?

**FINDINGS OF FACT**

Upon a review of the hearing record and finding no hearing had taken place, the findings of fact cannot be established.

**CONCLUSIONS OF LAW**

In the instant case, Claimant requested rehearing/reconsideration asserting typographical errors and other obvious errors that would impact the outcome of the original hearing decision.

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.

In the instant case, the assigned Administrative Law Judge (ALJ) issued a Hearing Decision in the above captioned matter. The ALJ affirmed the Department's determination that Claimant had divested herself of assets for purposes of the Medical Assistance (MA) or "Medicaid" spenddown benefit program. The Request for Rehearing/Reconsideration asserted, in essence, that the ALJ failed to address other relevant issues in the hearing decision. As such, the Request for Reconsideration was granted.

As part of the reconsideration processing, a review of the case file, all exhibits, the hearing record, applicable statutory and policy provisions, is required. During a review of the original hearing record in this matter, the digital recording revealed that a hearing did not take place. Because the original hearing record is inadequate for purposes of judicial review, MCL 24.287 provides that a rehearing shall be necessary. Accordingly, the Hearing Decision mailed on May 7, 2014 is **VACATED** and the Request for Rehearing is **GRANTED** pursuant to MCL 24.287.

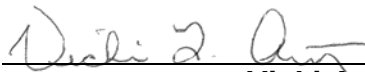
A Notice of Hearing will be mailed as soon as the hearing is scheduled.

### **DECISION AND ORDER**

THEREFORE IT IS ORDERED that a new hearing in this matter shall be scheduled and a Notice of Hearing shall be sent to all identified parties and authorized representatives.

IT IS FURTHER ORDERED that this hearing will be a *de novo* hearing meaning all evidence and testimony will be considered for first time by the assigned Administrative Law Judge.

**IT IS SO ORDERED.**

  
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**Vicki Armstrong**  
Administrative Law Judge  
for Nick Lyon, Interim Director  
Department of Human Services

Date Signed: **1/12/2015**

Date Mailed: **1/12/2015**

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**NOTICE:** The law provides that within 30 days of receipt of the this Decision, the Claimant may appeal it to the circuit court for the county in which he/she lives or the circuit court in Ingham County.

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