

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

IN THE MATTER OF:



MAHS Reg. No.: 15-020838
Issue No.: 2000
Agency Case No.: [REDACTED]
Hearing Date: January 20, 2016
County: Tuscola

ADMINISTRATIVE LAW JUDGE: Vicki Armstrong

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; and Mich Admin Code, R 792.11002. After due notice, an in-person hearing was held on January 20, 2016, in Caro, Michigan. The Claimant was represented by Attorney [REDACTED]. The Department was represented by Lead Worker [REDACTED].

Michigan Administrative Rule 792.11002 lays out instances where recipients of assistance have a right to an administrative hearing within the Michigan DHHS. This rule specifies when an opportunity for a hearing shall be granted:

- (1) An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance is denied or is not acted upon with reasonable promptness, has received notice of a suspension or reduction in benefits, or exclusion from a service program, or has experienced a failure of the agency to take into account the recipient's choice of service.
- (2) A hearing shall not be granted when either state or federal law requires automatic grant adjustments for classes of recipients, unless the reason for an individual appeal is incorrect grant computation.
- (3) A complaint as to alleged misconduct or mistreatment by a state employee shall not be considered through the administrative hearing process, but shall be referred to the agency customer service unit.

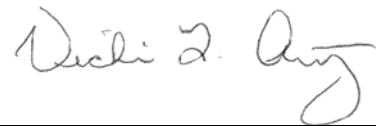
At the time of Claimant's hearing request, the Department had not taken any action to suspend, reduce, discontinue or terminate Claimant's MA benefits. Claimant was residing in a long-term care facility and had been approved for full Medicaid but was serving a divestment penalty. Claimant's Authorized Hearing Representative testified

that he was not contesting the divestment penalty. He stated that Claimant was running out of funds and had been threatened with release from the long-term care facility due to a foreseeable non-payment. Claimant's Authorized Hearing Representative was requesting that the divestment penalty be waived due to a financial hardship.

Under the administrative rule discussed above, Claimant does not have a right to a hearing in this matter and thus, this Administrative Law Judge has no jurisdiction to decide the matter.

As a result, Claimant's hearing request is **HEREBY DISMISSED** for lack of jurisdiction.

It is SO ORDERED.



Vicki Armstrong
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Mailed: **2/2/2016**

VA/nr

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date. A copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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 48909-8139

cc:

