Court of Appeals, State of Michigan

ORDER

The Wellness Plan v City of Oak Park

Docket No. 249587

LC No. 00-285899

Jane E. Markey
Presiding Judge

E. Thomas Fitzgerald

Donald S. Owens
Judges

On the Court's own motion, the opening paragraph of the December 14, 2004, opinion is hereby AMENDED to include the word "argument":

"Petitioner appeals as of right from a Tax Tribunal decision denying its request to declare its real property in Oak Park exempt from taxation for the tax year 2001. We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E)."

STATE OF MICHIGAN COURT OF APPEALS

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Sandra Schultz Mengel
Chief Clerk

STATE OF MICHIGAN

COURT OF APPEALS

THE WELLNESS PLAN, Petitioner-Appellant,	UNPUBLISHED December 14, 2004
v	No. 249587 Tax Tribunal
CITY OF OAK PARK, Respondent-Appellee.	LC No. 00-285899

Before: Markey, P.J., and Fitzgerald and Owens, JJ.

PER CURIAM.

Petitioner appeals as of right from a Tax Tribunal decision denying its request to declare its real property in Oak Park exempt from taxation for the tax year 2001. We affirm. This case is being decided without oral pursuant to MCR 7.214(E).

Petitioner is a nonprofit corporation and health maintenance organization. During 2001, petitioner provided comprehensive medical services for Medicaid eligible individuals, pursuant to a contract with the Michigan Department of Community Health. Petitioner provides all Medicaid covered services "except for hospital health care services which include inpatient, outpatient and emergency health care services normally done in a hospital." Petitioner also provides healthcare services to commercial members and any individual who requests treatment, but all services are "on a fee-for-service basis." Over ninety-five percent of the healthcare services provided at petitioner's Oak Park property are to Medicaid eligible individuals.

The hearing referee concluded that petitioner's property did not qualify for exemption under MCL 211.7r, finding that petitioner did not operate its clinic for public health purposes because it did not address the community's needs as whole, but operated as a fairly typical medical practice by treating patients on an individual basis.

Our review of the Tax Tribunal's decision is governed by the following standard:

> Judicial review of a determination by the Tax Tribunal is limited to determining whether the tribunal made an error of law or applied a wrong principle. Const 1963, art 6, § 28; *Comcast Cablevision of Sterling Heights, Inc v Sterling Heights*, 218 Mich App 8, 11; 553 NW2d 627 (1996). Generally, this Court will defer to the Tax Tribunal's interpretation of a statute that it is delegated to administer. *Maxitol Co v Dep't of Treasury*, 217 Mich App 366, 370; 551

NW2d 471 (1996). The factual findings of the tribunal are final, provided that they are supported by competent, material, and substantial evidence on the whole record. *Comcast, supra*. [*Rose Hill Center, Inc v Holly Twp*, 224 Mich App 28, 31; 568 NW2d 332 (1997).]

MCL 211.7r provides as follows:

> The real estate and building of a clinic erected, financed, occupied, and operated by a nonprofit corporation or by the trustees of health and welfare funds is exempt from taxation under this act, if the funds of the corporation or the trustees are derived solely from payments and contributions under the terms of collective bargaining agreements between employers and representatives of employees for whose use the clinic is maintained. *The real estate with the buildings and other property located on the real estate on that acreage, owned and occupied by nonprofit trust and used for hospital or public health purposes is exempt from taxation under this act*, but not including excess acreage not actively utilized for hospital or public health purposes and real estate and dwellings located on that acreage used for dwelling purposes for resident physicians and their families. [Emphasis added.]

Petitioner was required to prove its entitlement to the above exemption by a preponderance of the evidence. *ProMed Healthcare v City of Kalamazoo*, 249 Mich App 490, 495; 644 NW2d 47 (2002). Petitioner is clearly not a hospital. Therefore, in order to qualify for exemption under MCL 211.7r, it was required to show that the property was used for "public health purposes."

Petitioner argues that the trial court erred by considering whether it improves community health as a whole. Petitioner asserts that inquiry regarding benefit to the community's health is not supported by the language in MCL 211.7r. We disagree.

When asked to apply MCL 211.7r in *Rose Hill, supra* at 33, this Court observed that "public health purposes" is not defined in the statute. Accordingly, it relied on a dictionary definition of "public health" as

> [t]he art and science of protecting and improving community health by means of preventative medicine, health education, communicable disease control, and the application of the social and sanitary sciences. [*Id.*]

In light of *Rose Hill*, the hearing referee properly considered a "community health" standard. Thus, there is no merit to petitioner's claim that the Tax Tribunal applied an erroneous standard without supporting legal authority.

We reject petitioner's claim that the hearing referee concluded that only facilities that provide twenty-four-hour care can qualify for an exemption under MCL 211.7r. Although the hearing referee gave examples of the types of facilities that were previously found to be exempt, which included facilities that provide twenty-four-hour care, the hearing referee did not conclude that twenty-four-hour service was a requirement for exemption under MCL 211.7r.

Petitioner did not factually establish that it qualifies for exemption under MCL 211.7r. As the hearing referee found, petitioner offers medical services on an individual basis. The fact that Medicaid pays for the services of most members does not establish that petitioner's services are for "public health purposes." We reject petitioner's argument that restrictions imposed by the Department of Community Health when implementing the state's Medicaid program and other requirements it must follow when treating Medicaid patients demonstrate that its numerous services to "the medically vulnerable population" qualify as public health services because the overall health of the population is improved and the cost of providing healthcare to all state residents is reduced. Petitioner concedes that it is providing healthcare services to those who are unable to pay for their own medical care through private insurance. Petitioner's participation with Medicaid reimburses it for its services to those who cannot afford private health insurance. As the hearing referee found, petitioner is still offering medical services on an individual basis, not unlike any other doctor's office, for which Medicaid provides reimbursement. See *ProMed Healthcare, supra* at 498-501. Any preventative services or programs petitioner must offer do not appear to be so significant as to affect the result here. Rather, such services appear to be only incidental to petitioner's main purpose in providing individual healthcare to its participants.

Affirmed.

/s/ Jane E. Markey
/s/ E. Thomas Fitzgerald
/s/ Donald S. Owens