

**UNITED STATES BANKRUPTCY COURT
FOR THE WESTERN DISTRICT OF MICHIGAN**

In re:
Gwendolyn Thurman-Pryor

Case No: 22-01896
Chapter 13
Judge Boyd

Debtor(s) _____/

Michigan Department of Health and Human
Services,

Plaintiff,

Adversary Case No: 23-80021
Judge Boyd

v.

Gwendolyn Marie Thurman-Pryor,
Defendant.

_____/

MOTION TO DISMISS ADVERSARY CASE WITH PREJUDICE

NOW COMES, Gwendolyn Thurman-Pryor, Debtor(s) herein, by and through her attorney, Michelle Marrs, of Marrs & Terry, PLLC, and hereby moves this Court to dismiss the Adversary case with prejudice in this case, stating:

1. The Complaint filed in this adversary seeks to have a debt of the Debtor determined to be non-dischargeable based on 11 USC 523(a)(2) via 11 USC 523(c).
2. The Debtor filed a Chapter 13 Petition on September 18, 2022.
3. Debtor filed her Petition, Schedules, Statement of Financial Affairs, Chapter 13 Plan, and all other required documents on September 18, 2022.
4. Among the creditors listed in Debtor's Schedules was Creditor State of Michigan (hereinafter also referred to as "Creditor Plaintiff"), listed on Schedule E/F for "overpayment of Medicaid". (Docket 1, Page 28 of 56).
5. The name provided for Creditor Plaintiff on Schedule E/F was "State of Michigan".
6. The address provided for Creditor Plaintiff on Schedule E/F and the matrix was PO Box 30754, Lansing, MI 48909.
7. The name and address used by Debtor was consistent with the last correspondence/billing statement she received, prior to the filing of the petition, from Creditor Plaintiff, dated July 6, 2022. (Exhibit 1, attached hereto and incorporated by reference.)
8. Debtor is unaware of any statement filed by Creditor Plaintiff pursuant to FRBP 2002(g)(5) that designates the name and address of the person or organizational subdivision of Creditor Plaintiff responsible for receiving notices under the Code

that is different than the address Debtor obtained from Creditor Plaintiff's correspondence/billing statement dated July 6, 2022.

9. Debtor's actions were in compliance with 11 USC 342(c)(2) to the extent that Debtor had received 1 demand letter from Creditor Plaintiff within the ninety (90) days prior to filing and included the redacted account number listed by Creditor Plaintiff in said letter. (Exhibit 1)
10. Creditor Plaintiff was served with the Chapter 13 Plan by the Court Clerk, at its preferred email address on file with the Court of MarcsBankruptcyUnit@michigan.gov, on September 21, 2022. (Docket 13, Page 3 of 14.)
11. As Debtor did not have nor provide the Court with the email address of MarcsBankruptcyUnit@michigan.gov, Debtor asserts the Creditor Plaintiff must have provided such address to the Court pursuant to 11 USC 341(f) and therefore notice related to Debtor filing the bankruptcy petition in the underlying case is conclusively presumed to be a proper address for notice. FRBP 2002(g)(4).
12. The Court issued the Notice of Commencement in this case on September 22, 2022.
13. Creditor Plaintiff was served with the Notice of Commencement by the Court Clerk, at its preferred email address on file with the Court of MarcsBankruptcyUnit@michigan.gov, on September 25, 2022. (Docket 15, Page 3 of 6.)
14. The Meeting of Creditors set forth in the Notice of Commencement was set for November 3, 2022.
15. Pursuant to the Notice of Commencement and FRBP 4007(c), the deadline to file a complaint to challenge the dischargeability of certain debts, specifically including those to be excepted under 11 USC 523(a)(2), was no later than 60 days after the first date set for the meeting of creditors. (Docket 14, Page 2 of 3, Section 8.)
16. The 60th day following the first date set for the meeting of creditors was January 2, 2023.
17. The Notice of Commencement indicates that Creditor Plaintiff was to have filed any Complaint seeking exception to discharge under 11 USC 523(a)(2) on or prior to January 2, 2023, which was a federal holiday and thus the last day on which Creditor Plaintiff could have filed its Complaint was January 3, 2023.
18. Creditor Plaintiff did not file a Motion to Enlarge the time for filing a Complaint pursuant to FRBP 9006.
19. Creditor Plaintiff filed its Complaint in this case on March 23, 2023.

20. Creditor Plaintiff was properly and timely noticed of the underlying bankruptcy petition multiple times.
21. Creditor Plaintiff was properly and timely served the Notice of Commencement by the Court Clerk.
22. Creditor Plaintiff had proper and timely notice of the deadline imposed under FRBP 4007.
23. Creditor Plaintiff failed to take action in a timely manner to seek non-dischargeability of a debt under 11 USC 523(c).
24. Creditor Plaintiff's Complaint is untimely and must be dismissed.
25. Creditor Plaintiff cannot correct its error and therefore dismissal with prejudice is appropriate.

WHEREFORE, Debtor prays that this Court enter an Order Dismissing this case with prejudice or set this matter for hearing.

Dated: June 26, 2023

/s/ Michelle MARRS
Michelle MARRS (P59651)
MARRS & TERRY, PLLC
6553 Jackson Rd
Ann Arbor, MI 48103
734-663-0555
MMARRS@marrsterry.com

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_____/

ORDER DISMISSING CASE WITH PREJUDICE

This matter having come on for consideration based upon the filing of a Motion to Dismiss Adversary Case with prejudice, the required notice having been provided, and the Court being otherwise sufficiently advised in the premises;

IT IS HEREBY ORDERED that this Adversary Case is dismissed with prejudice.

EXHIBIT A

**UNITED STATES BANKRUPTCY COURT
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CERTIFICATE OF SERVICE

The undersigned hereby states that she did serve the Debtor's Motion to Dismiss Adversary Case with Prejudice and Certificate of Service via the courts Electronic Case Filing System upon the Chapter 13 trustee, the Clerk of the Court, and Attorney Adam M Roose, Counsel for the Defendant.

Dated: June 27, 2023

/s/ Michelle MARRS
Michelle MARRS (P59651)
MARRS & TERRY, PLLC
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STATE OF MICHIGAN
DEPARTMENT OF ATTORNEY GENERAL



P.O. Box 30754
LANSING, MICHIGAN 48909

DANA NESSEL
ATTORNEY GENERAL

July 6, 2022

Gwendolyn Thurman-Pryor
4412 Stillwell Ave
Lansing, MI 48911

Re: Gwendolyn Thurman-Pryor, Michigan Department of Health and
Human Services Overpayment; INV-2022

Ms. Thurman-Pryor,

I have been assigned to represent the Michigan Department of Health and Human Services—Office of the Inspector General in this collections matter regarding the Medicaid Overpayment you owe back to the State.

I am writing you to discuss setting up a repayment agreement for your \$15,061.41 Medicaid Overpayment.

If you are unable to repay the full amount all at once, it is acceptable for a payment plan of 20% down and repayment over 24 months (or less). A 24 month repay plan would amount to \$3,012.28 down and then 24 monthly payments of \$506.87 at the current Common Cash Fund Rate of 0.92%. (The interest rate may fluctuate somewhat by the time we do an agreement, but it is not likely to change by much). If this does not work for you, we can discuss different terms, including possibly a flat 24-month repayment plan of \$633.59 per month, though that would require separate OIG approval.

If you are unable to agree to terms for repayment within 24 months or less, then you will be required to submit financial documentation for your personal finances, income, and expenses, to justify a longer repayment window and that will also be subject to OIG approval and will require justification based on the documentation received.

EXHIBIT 1