

STATE OF MICHIGAN
COURT OF APPEALS

HEALTHLINK MEDICAL TRANSPORTATION
SERVICES, INC.,

UNPUBLISHED
February 15, 2005

Petitioner-Appellant,

v

No. 249969
Tax Tribunal
LC No. 00-275821

CITY OF TAYLOR and COUNTY OF WAYNE,

Respondents-Appellees.

Before: Talbot, P.J., Whitbeck, C.J., and Jansen, J.

PER CURIAM.

Petitioner appeals as of right from a decision of the Michigan Tax Tribunal denying petitioner's request for an exemption from ad valorem taxation pursuant to either the charitable purpose exemptions in MCL 211.7o and MCL 211.9(a), or the public health exemption in MCL 211.7r, for tax years 2000 and 2001. The Tax Tribunal determined that petitioner failed to establish either that it provided a charitable gift or that it used its property for "public health" purposes, as opposed to providing care for individual patients. We affirm. This case is being decided without oral argument pursuant to MCR 7.214(E).

MCL 211.7o(1)¹ provides that property "owned and occupied by a nonprofit charitable institution while occupied by that nonprofit charitable institution solely for the purposes for which it was incorporated is exempt from the collection of taxes under this act." The test for determining the applicability of this exemption focuses on the following definition of charity:

[C]harity . . . [is] a gift, to be applied consistently with existing laws, for the benefit of an indefinite number of persons, either by bringing their minds or hearts under the influence of education or religion, by relieving their bodies from disease, suffering or constraint, by assisting them to establish themselves for life,

¹ Petitioner concedes that the relevant portions of the charitable exemptions in MCL 211.7o and MCL 211.9(a) are substantially identical and offers no argument for distinguishing the provisions. Therefore, our analysis of MCL 211.7o applies equally to MCL 211.9(a).

or by erecting or maintaining public buildings or works or otherwise lessening the burdens of government.

The proper focus in this case is whether [the petitioner's] activities, taken as a whole, constitute a charitable gift for the benefit of the general public without restriction or for the benefit of an indefinite number of persons. [*ProMed Healthcare v Kalamazoo*, 249 Mich App 490, 499; 644 NW2d 47 (2002) (citations and internal quotation marks omitted).]

The Tax Tribunal found that petitioner “provides services that benefit an indefinite number of persons by relieving their bodies of disease, suffering or constraint, and by lessening the burdens of government,” but concluded that petitioner failed to show that the benefit conferred was essentially a gift.

We agree with the Tax Tribunal that petitioner failed to establish its entitlement to the exemption. The Tax Tribunal correctly recognized that the fact that an institution charges for its services does not necessarily defeat a charitable exemption. See *Retirement Homes of the Detroit Annual Conference of the United Methodist Church, Inc v Sylvan Twp*, 416 Mich 340, 350 n 15; 330 NW2d 682 (1982). But petitioner did not present evidence establishing the value of any charitable care it provided. In response to interrogatories, petitioner stated that it did not separately account for charitable care or financial assistance. Rather, the amount of charitable care and financial assistance was included in its “Bad Debt expense,” together with amounts attributable to patients who were able, but unwilling, to pay. Although petitioner claimed that it was under-compensated by Medicare and Medicaid, as noted by the Tax Tribunal, petitioner did not present any evidence concerning the cost of its services and the reimbursement amounts. Petitioner also relied on evidence of involvement in various community events to establish entitlement to a charitable exemption. However, petitioner’s failure to present adequate evidence concerning these activities caused the Tax Tribunal to distinguish the present case from another case in which the Tax Tribunal found the charitable exemption applicable to another ambulance care provider, which was one of petitioner’s two corporate members. See *Community Emergency Medical Service, Inc v City of Novi*, 8 MTTR 206 (Docket No. 126009, October 19, 1994). The present case is analogous to *ProMed Healthcare, supra*, p 490, in that petitioner failed to present evidence showing that its provision of charitable care “constituted anything more than an incidental part of its operation.”

Petitioner also argues that the Tax Tribunal erred in rejecting petitioner’s request for an exemption under MCL 211.7r, which exempts from taxation “[t]he real estate with the buildings and other property located on the real estate on that acreage, owned and occupied by a nonprofit trust and used for hospital or public health purposes” The Tax Tribunal determined that petitioner failed to show that it used its property for *public* health purposes, which focuses on the community’s health rather than on care for individuals. In *Rose Hill Center, Inc v Holly Twp*, 224 Mich App 28, 33; 568 NW2d 332 (1997), this Court relied on the following definition of “public health”: “The 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.”

We are not persuaded that the Tax Tribunal’s determination of this point was erroneous. Our conclusion is supported by recent decisions of this Court, which similarly concluded that

medical services offered on an individualized basis are not for “public health purposes.” *The Wellness Plan v City of Oak Park*, unpublished opinion of the Court of Appeals, issued December 14, 2004 (Docket No. 249587); *McClaren Regional Medical Center v City of Owosso*, unpublished opinion of the Court of Appeals, issued August 24, 2004 (Docket Nos. 244386, 250197). Although these unpublished decisions are not precedentially binding under the rule of stare decisis, MCR 7.215(C)(1), we find them persuasive.

Furthermore, the Tax Tribunal’s decision states that the personal property in question is located “within a facility that Petitioner rents within the City of Taylor.” In *ProMed Healthcare, supra*, p 497, this Court held that MCL 211.7r “grants an exemption only to a nonprofit trust that owns the real estate on which the personal property is located.” Thus, to the extent petitioner does not own the real estate, as indicated in the Tax Tribunal’s opinion, the exemption is not applicable.

In sum, petitioner bore the burden of proving its entitlement to an exemption by a preponderance of the evidence. *ProMed Healthcare, supra*, pp 494-495. The Tax Tribunal correctly determined that petitioner did not carry its burden.

Affirmed.

/s/ Michael J. Talbot
/s/ William C. Whitbeck
/s/ Kathleen Jansen