



Date Mailed: April 24, 2025

Docket No.: 25-006651

Case No.: [REDACTED]

Petitioner: [REDACTED]

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এটি একটি গুরুত্বপূর্ণ আইনি ডকুমেন্ট। দয়া করে কেউ দস্তাবেজ অনুবাদ করুন।

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这是一份重要的法律文件。请让别人翻译文件。

Ky është një dokument ligjor i rëndësishëm. Ju lutem, kini dikë ta përktheni dokumentin.

### **HEARING DECISION**

Following Petitioner'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; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33; and 45 CFR 205.10; and Mich Admin Code, R 792.11002. After due notice, a hearing was held by telephone on April 16, 2025. Petitioner appeared and was represented by his Authorized Hearing Representative (AHR), [REDACTED]. The Department of Health and Human Services (Department) was represented by Nina Kossak, Eligibility Specialist.

### **ISSUE**

Did the Department properly deny Petitioner Medicaid (MA) coverage due to excess assets?

### **FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. As relevant to this hearing, Petitioner owns real property in [REDACTED], [REDACTED], parcel numbers ending [REDACTED] and [REDACTED] (RE). (Exhibit A, pp. 7, 26; Exhibit 1, pp. 9, 66 – 69).

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1. On or about February 21, 2024, Petitioner and his family members contacted [REDACTED] (Realtor) and requested Realtor list Petitioner's RE for sale for a fair market value (FMV). (Exhibit A, pp. 23 – 24).
  2. On February 21, 2024, Realtor advised Petitioner and his family members that the recommended list price for the RE was \$125,000. (Exhibit A, p. 23).
  3. On March 17, 2024, Petitioner's properties were listed for sale jointly with a property adjacent to one of Petitioner's properties, which was owned by Petitioner's family members. The RE was listed for sale for \$125,000 by Realtor. The sale listing expired September 30, 2024. (Exhibit 1, pp. 9 – 19, 64 - 69; Exhibit A, p. 1).
  4. On June 14, 2024, Petitioner and his family members received an offer to purchase the RE for \$125,000. (Exhibit 1, pp. 39 – 58, 62).
  5. On July 11, 2024, the offer to purchase the RE was rescinded. (Exhibit A, p. 25; Exhibit 1, p. 38).
  6. On [REDACTED] 2024, the Department received an application for MA from Petitioner. Petitioner reported that he was [REDACTED] years old, not married, a Medicare recipient, and resided in [REDACTED]. Petitioner also reported that he owned a home and other RE. (Exhibit B, pp. 1 – 8).
  7. On July 30, 2024, the Department sent Petitioner a Verification Checklist (VCL) that requested Petitioner provide verification of land, among other things, to the Department by August 9, 2024. The VCL indicated that verification documents included mortgage or deed, current property tax records, county records, or other documents. (Exhibit B, pp. 9 – 10).
  8. On November 14, 2024, Petitioner's and his family members' RE was re-listed for sale for \$125,000 by Realtor. The sale listing expires July 1, 2025. (Exhibit A, pp. 6 – 22).
  9. On January 6, 2025, the Department denied Petitioner's application for MA due to excess assets.
  10. On January 31, 2025, the Department received a request for hearing from Petitioner, disputing the Department's denial of his application for MA due to excess assets and asserting the Department should not consider his RE an asset because it was listed for over 90 days and was not sold. (Exhibit A, pp. 3 – 5).
  11. On February 12, 2025, the Department sent Petitioner a Benefit Notice, in place of a Health Care Coverage Determination Notice (HCCDN), that denied Petitioner for MA for July 2024 and retroactive months of April, May, and June 2024 due to excess assets. (Exhibit A, pp. 28 – 31).

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## CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

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 Department of Human Services) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Petitioner requested a hearing to dispute the Department's denial of his application for MA due to excess assets and asserted that the Department should disregard his RE as an asset because it was listed for sale for over 90 days and had not sold.

Because Petitioner is over 65 and is not the caretaker of a minor child, Petitioner was potentially eligible for SSI-related MA coverage only, under AD-Care MA or Group 2 Aged, Blind and Disabled (G2S) MA. 42 CFR 435.911; 42 CFR 435.100 to 435.172; BEM 105 (January 2024), pp. 1 – 2; BEM 137 (January 2024), p. 1; BEM 124 (July 2023), p. 1. The AD-Care program is a Group 1, full-coverage, SSI-related MA program for individuals who are income-eligible based on their MA fiscal group size, while G2S is an SSI-related MA program which provides for MA coverage with a monthly deductible. BEM 163 (July 2017), p. 1; BEM 166 (April 2017), p. 1; see also BEM 211 (October 2023), pp. 7 – 8.

As SSI-related MA programs, both AD-Care MA and G2S have an asset test and require the Department to consider a client's countable assets when determining eligibility for those categories. BEM 400 (June 2024), pp. 1, 7. Assets are countable if they are available, as defined by policy, and are not excluded. BEM 400, pp. 2 – 3. For purposes of SSI-related MA, countable assets include real property, and the value of those assets cannot exceed the applicable limit, which is \$2,000 for single individuals, such as Petitioner. BEM 400, pp. 2, 9.

However, an asset owned by a MA applicant, that is real property, is given a \$0 countable value when it has no current market value as established by one of the following:

- a) Two knowledgeable and appropriate sources (example: realtor, banker, stockbroker) in the owner's geographic area state that the asset is not salable due to a specific condition (for example, the property is contaminated with heavy metals), or

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- b) An actual attempt to sell the asset, started at least 90 days prior to the application and continued until the property is sold, at or below FMV in the owner's geographic area results in no reasonable offer to purchase.

BEM 400, pp. 15 – 16.

An actual sale attempt to sell means the seller has a set price of the asset for FMV, is actively advertising the property in publications such as local newspaper, and the property is currently listed with a licensed realtor. BEM 400, p. 16. For most assets, non-salable is a temporary condition and the asset becomes countable when a reasonable offer is received. BEM 400, p. 15.

In this case, there was no dispute that Petitioner listed his RE with his family members' in a single offer to sell all three parcels together for \$125,000 from March 17, 2024 through September 30, 2024, and again on November 14, 2024 through at least the date of the hearing. There was also no dispute that Realtor asserted the FMV of Petitioner's and his family members' RE was \$125,000 (Exhibit 1, p. 5), and that only one offer to purchase had been received, which was subsequently rescinded. Although the foregoing was not disputed, the Department testified that the listing agreement prohibited a buyer from purchasing Petitioner's parcels separately and that that factor impacted the salability of Petitioner's property. In contrast, Petitioner testified that the listing agreement permitted Petitioner and his family members to accept any terms included in an offer to purchase, including selling only Petitioner's parcels, and asserted that based on that fact and how long the RE had been listed for sale prior to his application, Petitioner had met the conditions necessary to determine his parcels were non-salable and should have had a countable value of \$0.

However, to establish that Petitioner's RE assets are non-salable and have no current market value for purposes of SSI-related MA, Petitioner must have made an actual attempt to sell his two parcels, separately from his family members', not bundled with an asset of individuals outside his fiscal group. BEM 400, p. 15; BEM 211, pp. 7 – 8; see also BPG, pp. 6, 14. Because Petitioner's RE assets were not offered for sale separately from his family members', and there was no evidence that the sales listing informed potential buyers of the option to purchase only Petitioner's RE, and the corresponding asking price to do so, it was not established that Petitioner's individual RE assets had no current market value. Therefore, the Department properly determined Petitioner's RE remained a countable asset and that Petitioner had countable assets in excess of the \$2,000 SSI-related MA asset limit.

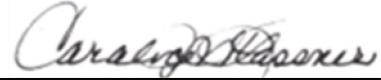
### **DECISION AND ORDER**

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it determined Petitioner had excess assets and was ineligible for MA.

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Accordingly, the Department's decision is **AFFIRMED**.



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**CARALYCE M. LASSNER**  
**ADMINISTRATIVE LAW JUDGE**

**APPEAL RIGHTS:** Petitioner may appeal this Hearing Decision to the circuit court. Rules for appeals to the circuit court can be found in the Michigan Court Rules (MCR), including MCR 7.101 to MCR 7.123, available at the Michigan Courts website at [courts.michigan.gov](https://courts.michigan.gov). The Michigan Office of Administrative Hearings and Rules (MOAHR) cannot provide legal advice, but assistance may be available through the State Bar of Michigan at <https://lrs.michbar.org> or Michigan Legal Help at <https://michiganlegalhelp.org>. A copy of the circuit court appeal should be sent to MOAHR. A circuit court appeal may result in a reversal of the Hearing Decision.

Either party who disagrees with this Hearing Decision may also send a written request for a rehearing and/or reconsideration to MOAHR within 30 days of the mailing date of this Hearing Decision. The request should include Petitioner's name, the docket number from page 1 of this Hearing Decision, an explanation of the specific reasons for the request, and any documents supporting the request. The request should be sent to MOAHR

- by email to [MOAHR-BSD-Support@michigan.gov](mailto:MOAHR-BSD-Support@michigan.gov), **OR**
- by fax at (517) 763-0155, **OR**
- by mail addressed to  
Michigan Office of Administrative Hearings and Rules  
Rehearing/Reconsideration Request  
P.O. Box 30639  
Lansing Michigan 48909-8139

Documents sent via email are not secure and can be faxed or mailed to avoid any potential risks. Requests MOAHR receives more than 30 days from the mailing date of this Hearing Decision may be considered untimely and dismissed.

**Via Electronic Mail:**

**Respondent**  
OAKLAND COUNTY DHHS -  
SOUTHFIELD DIST  
25620 W 8 MILE RD  
SOUTHFIELD, MI 48033  
**MDHHS-OAKLAND-6303-  
HEARINGS@MICHIGAN.GOV**

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\_\_\_\_\_

**Interested Parties**  
EQAD HEARINGS  
M. SCHAEFER

**Via First Class Mail:**

**Authorized Hearing Rep**

[REDACTED]

**Petitioner**

[REDACTED]