



**Date Mailed:** September 10, 2025

**Docket No.:** 25-028107

**Case No.:** [REDACTED]

**Petitioner:** [REDACTED]

This is an important legal document. Please have someone translate the document.

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

Este es un documento legal importante. Por favor, que alguien traduzca el documento.

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

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**Case No.:** [REDACTED]

**Petitioner:** [REDACTED] [REDACTED]

### **HEARING DECISION**

On July 29, 2025, Petitioner [REDACTED] [REDACTED] requested a hearing to dispute a Medicaid determination. As a result, a hearing was scheduled to be held on September 9, 2025. Public assistance hearings are held 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; 45 CFR 205.10; and Mich Admin Code, R 792.11002.

Attorney Amanda Napier appeared for Petitioner. Assistant Attorney General Heather Sneden appeared for Respondent Michigan Department of Health and Human Services (Department). Respondent had Assistance Payments Supervisor Jennifer Richard appear as a witness. There were no other participants.

One exhibit was admitted into evidence during the hearing. A 90-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

### **ISSUE**

Did the Department properly determine Petitioner's divestment penalty?

### **FINDINGS OF FACT**

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

1. Petitioner applied for Medicaid.
2. The Department determined that Petitioner was subject to a divestment penalty from April 1, 2024, through May 18, 2024.
3. On April [REDACTED] 2024, the Department mailed a health care coverage determination notice to Petitioner to notify her that she was subject to a divestment penalty from April 1, 2024, through May 18, 2024.
4. On May [REDACTED] 2024, Petitioner notified the Department that she sold her home and transferred the proceeds to her daughter.

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5. The Department redetermined Petitioner's divestment penalty, and the Department determined that Petitioner was subject to a divestment penalty from April 1, 2024, through May 9, 2025.
  6. The Department erroneously failed to notify Petitioner that she was subject to a divestment penalty from April 1, 2024, through May 9, 2025.
  7. On May ■ 2025, the Department reviewed Petitioner's case, and the Department determined that it failed to properly notify Petitioner that she was subject to divestment penalty from April 1, 2024, through May 9, 2025. The Department determined that it could not change the original divestment penalty period because it had to give Petitioner timely notice before beginning the divestment penalty period.
  8. On July ■ 2025, the Department mailed a health care coverage determination notice to Petitioner to notify her that she was subject to a divestment penalty from August 1, 2025, through July 20, 2026.
  9. Petitioner requested a hearing to dispute the divestment penalty.

### **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).

Medicaid is known as Medical Assistance (MA). The 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 administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

In this case, Petitioner is disputing the Department's decision to impose a divestment penalty from August 1, 2025, through July 20, 2026. When a client is subject to a divestment penalty, the divestment penalty starts on the date the client is eligible for Medicaid and would otherwise be receiving institutional level care (LTC, MIChoice waiver, home help, or home health services), and is not already part of a penalty period. BEM 405 (July 1, 2025), pp. 13-14 and 42 USC 1396p(c)(1)(D)(ii). Both Petitioner and the Department agree that Petitioner's divestment penalty period should have been from April 1, 2024, through May 9, 2025. This includes both the original divestment penalty that ran from April 1, 2024, through May 18, 2024, and the additional divestment penalty from the sale of Petitioner's home. Although the Department erroneously failed

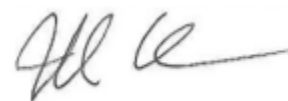
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to give Petitioner timely notice as required by BEM 405, notice was not necessary because both parties were aware of the divestment penalty at the time.

**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 did not properly determine Petitioner's divestment penalty.

**IT IS ORDERED** that the Department's decision is **REVERSED**. The Department shall correct the dates of Petitioner's divestment penalty to April 1, 2024, through May 9, 2025. The Department shall begin to implement this decision within 10 days of the mailing date of this hearing decision.



\_\_\_\_\_  
**JEFFREY KEMM**  
**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

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**Via Electronic Mail:**

**Respondent Representative**

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**Petitioner**

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