



Date Mailed: November 10, 2025
Docket No.: 25-028649
Case No.: [REDACTED]
Petitioner: [REDACTED]

[REDACTED]
MI [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.

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.

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Docket No.: 25-028649

Case No.: [REDACTED]

Petitioner: [REDACTED]

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; 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 via telephone conference on October 8, 2025. Petitioner was unrepresented by Thomas Klug, Attorney. [REDACTED], Trustee, appeared as a witness for Petitioner. The Michigan Department of Health and Human Services (MDHHS or Department) was represented by Heather Sneden, Assistant Attorney General. Carmencita Fulgado-Taylor, Attorney, Bureau of Legal Affairs, and Amber Gibson, Hearing Facilitator, appeared as witnesses for the Department.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-45, and Petitioner's additional documentation was admitted as Exhibits 1-16.

ISSUE

Did the Department properly determine Petitioner's eligibility for Medical Assistance (MA)?

FINDINGS OF FACT

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

1. On April 29, 2021, a Special Needs Trust was entered into by [REDACTED] as Grantor and Self-Trustee and for the sole benefit of Petitioner. (Exhibit A, pp. 17-45; Exhibit 3)
2. The Department's March 2, 2022 Trust/Annuity Evaluation of Petitioner's Special Needs Trust found that the trust met all the criteria of a Medicaid trust as set forth in BEM 401; but the trust does not meet the conditions of an Exception A, Special Needs Trust because the trust was not established by a court, nor Petitioner, or by Petitioner's parent, grandparent, or legal guardian/conservator. (Exhibit A, pp. 13-16; Exhibit 6)

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3. A June 24, 2025 Verification of Deposit documented that the current balance of accounts in Petitioner's name was \$ [REDACTED], and the 180 day average balance was \$ [REDACTED]. (Exhibit A, p. 11; Exhibit 7)
 4. A May 13, 2025 to June 11, 2025 statement from [REDACTED] documented an ending balance of \$ [REDACTED] and low balance of \$ [REDACTED] for a checking account for Petitioner's Special Needs Trust. (Exhibit A, p. 12; Exhibit 8)
 5. On July 11, 2025, a Health Care Coverage Determination Notice was issued to Petitioner stating MA was denied effective August 1, 2025, because the value of her countable assets was higher than allowed for this program. (Exhibit A, pp. 6-10; Exhibit 9)
 6. On August 11, 2025, Petitioner submitted a hearing request contesting the Department's determination. (Exhibit A, pp. 3-5; Exhibit 9)

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 referenced the BEM 400 trust definition for a grantor:

Trust Definitions

FIP, RCA, SDA and CDC

Grantor or settlor - the person who established the trust. It includes anyone who furnishes real or personal property for the creation of the trust.

BEM 400, March 1, 2025, p. 29. (Exhibit 14).

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However, this portion of policy only applies for the Family Independence Program (FIP), Refugee Cash Assistance (RCA), State Disability Assistance (SDA) and Child Development and Care (CDC) program. As set forth in the BEM 400 policy, this section does not apply when the program at issue is MA.

The BEM 400 policy specifies that MA trust policy is found in BEM 401, Trusts-MA. BEM 400, March 1, 2025, p. 30.

BEM 401 policy states:

GENERAL DEFINITIONS

Grantor or Settlor The person who established the trust. Any person who contributes to a trust is considered a grantor.

BEM 401, January 1, 2022, pp. 1-2.

MEDICAID TRUST CRITERIA

A Medicaid trust is a trust that meets conditions 1 through 5 below:

1. The person whose resources were transferred to the trust is someone whose assets or income must be counted to determine MA eligibility, an MA post-eligibility patient-pay amount, a divestment penalty, or an initial asset assessment (IAA) amount. A person's resources include his spouse's resources (see definition).
2. The trust was established by:
 - The person.
 - The person's spouse.
 - Someone else (including a court or administrative body) with legal authority to act in place of or on behalf of the person or the person's spouse, or an attorney, or adult child.
 - Someone else (including a court or administrative body) acting at the direction or upon the request of the person or the person's spouse or an attorney ordered by the court.
3. The trust was established on or after August 11, 1993.
4. The trust was not established by a will.

5. The trust is **not** described in Exception A, Special Needs Trust, or Exception B, Pooled Trust in this item.

Exception A, Special Needs Trust

A trust is **not** a Medicaid trust if it meets all the following conditions:

- The trust must be unchangeable with regard to the provisions that make it an Exception A, Special Needs Trust. This is necessary to ensure that a trust initially meeting the other conditions still meets those conditions when the person dies; it must be irrevocable.
- The trust contains the resources of a person who is under age 65 and is disabled (not blind) per BEM 260. See Continuing Exception A when the person has attained age of 65.
- The trust was established for the person described above. This means that the trust must ensure that none of the principal or income can be used for someone else during the person's lifetime, except for trustee fees per BEM 405.
- The trust was established by a court, by the person described above, or by the person's:
 - Parent.
 - Grandparent.
 - Legal guardian/conservator.

BEM 401, January 1, 2022, pp. 7-9, underline added by ALJ (Exhibit 15).

In this case, the parties dispute whether Petitioner's Special Needs Trust meets the criteria to be considered an Exception A Special Needs trust, specifically the criteria relating to who established the trust.

As noted above, the BEM 400 definition of a grantor referenced by Petitioner does not apply when the program at issue is MA.

The BEM 401 policy outlines the criteria for a Medicaid Trust as well as separate criteria for an Exception A Special Needs Trust. The criteria for an Exception A Special Needs Trust specifies that the trust was established by a court, the person described above, or the persons parent, grandparent, or legal guardian/conservator. The description of the person is two bullet points prior within the Exception A Special Needs Trust criteria, specifically "a person who is under age 65 and is disabled (not blind) per BEM 260." On April 29, 2021, a Special Needs Trust was entered into by [REDACTED] as

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Grantor and Self-Trustee and for the sole benefit of Petitioner. (Exhibit A, pp. 17-45; Exhibit 3). Accordingly, Petitioner's Special Needs Trust cannot meet the criteria for an Exception A Special Needs Trust because it was established by [REDACTED] and was not established by a court, Petitioner, or Petitioner's parent, grandparent, or legal guardian/conservator.

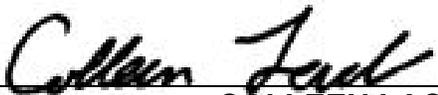
Petitioner's Special Needs Trust was properly determined to meet the criteria of a Medicaid Trust, not an Exception A Special Needs Trust. As stated in the March 2, 2022 Trust/Annuity Evaluation of Petitioner's Special Needs Trust, it is an irrevocable trust and the BEM 401 policy regarding including the value of the countable assets in the trust principle for an irrevocable trust applies. (Exhibit A, pp. 13-16; Exhibit 6). See also BEM 401, January 1, 2022, p. 13.

The applicable MA asset limit for a group of one is \$9,660.00 effective January 1, 2025. BEM 400, March 1, 2025, p. 8. (Exhibit 13). A June 24, 2025 Verification of Deposit, documented that the current balance of accounts in Petitioner's name was \$ [REDACTED] and the 180 day average balance was \$ [REDACTED]. (Exhibit A, p. 11; Exhibit 7). A May 13, 2025 to June 11, 2025 statement from [REDACTED] documented an ending balance of \$ [REDACTED], and low balance of \$ [REDACTED] for a checking account for Petitioner's Special Needs Trust. (Exhibit A, p. 12; Exhibit 8). When both account balances are considered, Petitioner's assets exceeded the applicable asset limit. Accordingly, on July 11, 2025, a Health Care Coverage Determination Notice was issued to Petitioner stating MA was denied effective August 1, 2025 because the value of her countable assets was higher than allowed for this program. (Exhibit A, pp. 6-10; Exhibit 9). This determination was in accordance with Department policies.

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's eligibility for MA.

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



COLLEEN LACK
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. 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, **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 Representative

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Petitioner Representative

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