



Date Mailed: November 20, 2025
Docket No.: 25-033943
Case No.: [REDACTED]
Petitioner: [REDACTED]

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

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Docket No.: 25-033943

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 22, 2025. Petitioner did not appear for the hearing. Petitioner was represented by her Authorized Hearing Representative (AHR) [REDACTED]. The Michigan Department of Health and Human Services (MDHHS or Department) was represented by D'Nielle Hopkins, Assistance Payments Worker.

ISSUE

Did the Department properly process Petitioner's Medical Assistance (MA) benefits and impose a divestment penalty for the period of August 1, 2025, through August 27, 2026?

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 or around [REDACTED] 2024, Petitioner entered Long-Term Care (LTC).
2. On or around [REDACTED] 2025, a Long-Term Care (LTC) Application for Health Care Coverage Patient of Nursing Facility (DHS-4574) (Application) was submitted to the Department on Petitioner's behalf. A request for retroactive MA coverage for the months of December 2024, January 2025, and February 2025 was also submitted. (Exhibit A, pp. 10-22)
3. In connection with the LTC application, Petitioner disclosed that her primary residence is [REDACTED]. Petitioner also disclosed that she is the joint owner of a second home at [REDACTED] with [REDACTED] [REDACTED] (her deceased husband) and her son, [REDACTED] (Exhibit A, pp. 23-27)
4. On or around [REDACTED] 2025, the Department sent Petitioner a Health Care Coverage Determination Notice advising that effective December 1, 2024, she was approved for MA under the Plan First category that does not have an asset test. (Exhibit A, pp. 29-32)

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5. Although not reflected on the Notice, the Department determined that Petitioner was ineligible for LTC MA because the value of the second home resulted in Petitioner's assets exceeding the MA asset limits. _____
6. Between April 17, 2025, and July 17, 2025, in connection with the application and during the Department's processing of Petitioner's MA eligibility, Petitioner submitted documentation including letters from her son and a letter denying his pre-approval for a loan, showing that he cannot obtain any financing or loan to purchase the home or a new home to move to. Petitioner requested that the Department consider the undue hardship policy in BEM 400. _____
 - a. The Department obtained clarification from its eligibility policy review division, which concluded that the undue hardship policy does not apply to Petitioner's situation, as the documentation submitted by Petitioner did not establish that there was no readily available housing for her son in ██████████ MI.
7. The Department continued Petitioner's MA eligibility under the Plan First category, as it does not have an asset test.
8. On or around July 30, 2025, Petitioner transferred, via a Quit Claim Deed, her ownership interest in the home located at ██████████ to her son. (Exhibit A, p. 53)
9. The Department determined that the transfer of Petitioner's share of the home was considered divestment of an available resource.
10. On or around August 25, 2025, the Department sent Petitioner a Health Care Coverage Determination Notice informing her that effective August 1, 2025, ongoing, she was approved for MA with a monthly patient pay amount of ██████████
 - a. The Notice further informed Petitioner that for the time period between August 1, 2025, through August 27, 2026, a divestment penalty applied which precluded any long-term care (LTC) and home and community-based waiver services due to a transfer of assets for less than fair market value. (Exhibit A, pp. 55-58)
11. On or around September 15, 2025, a hearing was requested on Petitioner's behalf, disputing the imposition of the divestment penalty. (Exhibit A, pp.3-6)

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).

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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.

In the August 25, 2025, Health Care Coverage Determination Notice (Notice), the Department concluded that Petitioner's MA eligibility was subject to a divestment penalty from August 1, 2025, through August 27, 2026, precluding LTC and/or waiver benefits on Petitioner's behalf during that period, as it determined a divestment occurred. In response to the Notice, on September 15, 2025, a hearing was requested on Petitioner's behalf disputing the Department's actions.

Divestment is a type of transfer of a resource and not an amount of resources transferred. A divestment is a transfer of a resource by a client that is (i) within a specified time (the look-back period), (ii) for less than fair market value (FMV), and (iii) not an excluded transfer. BEM 405 (February 2025), p. 1. Resource means all of the client's assets and income. It includes all assets and all income, even countable and/or excluded assets the individual receives. Homes and real property are assets. In determining a client's asset eligibility for MA, the Department will consider the value of the home/real property by assessing its fair market and equity value. BEM 400 (March 2025), pp. 33-34. Jointly owned assets are assets that have more than one owner. Jointly owned real property is only excludable if it creates a hardship for the other owners. For jointly owned real property, the Department will count the individual's share as an asset unless sale of the property would cause undue hardship. Undue hardship is defined as a co-owner uses the property as his or her principal place of residence and they would have to move if the property were sold and there is no other readily available housing. BEM 400, pp. 12-13.

Transferring a resource means giving up all or partial ownership in (or rights to) the resource. When a client jointly owns a resource with another person, any action by the client that reduces or eliminates the client's ownership or control is considered a transfer by the client. However, an exception applies and there is no divestment penalty imposed if the parties involved verify that the resource transferred actually belonged solely to the person to whom it was transferred. Transfers of resources that are excluded or transfers of assets that are not countable because they are unavailable or not salable under SSI-related MA policy may be divestment. BEM 405 (February 2025), pp. 1-4, 10-12. While transfers exclusively for a purpose other than to qualify or remain eligible for MA are not divestment, the Department will assume that a transfer for less than fair market value was for eligibility purposes until the client provides convincing evidence that they had no reason to believe LTC services may be needed. Furthermore,

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the fact that the asset or income is not counted for MA does not make its transfer for another purpose other than to qualify for MA. BEM 405, p. 12.

Divestment results in a penalty period, not MA program ineligibility. During the penalty period, MA will not pay the client's cost for: LTC services; home and community-based services; home help; or home health. MA will pay for other MA-covered services. BEM 405, pp.1-5. To determine if an asset transfer qualifies as divestment, the baseline date must first be established. A person's baseline date is the first date that the client was eligible for MA and one of the following: in LTC; approved for the waiver; eligible for home health services; or eligible for home help services. BEM 405, pp.5-6. A client's baseline date does not change, even if the client leaves LTC. Transfers that occur on or after a client's baseline date must be considered for divestment. In addition, once the baseline date is established, the Department will determine the look-back period, which is 60 months prior to the baseline date. BEM 405, p. 5-6.

At issue in this case is Petitioner's joint ownership with her son of the home located at [REDACTED] and Petitioner's subsequent quitclaim of the home to her son, which the Department determined was a transfer of Petitioner's real property interest for less than fair market value and resulted in divestment. There was no dispute that the baseline date is [REDACTED] 2024, based on Petitioner's admission to LTC as reported on the application. There was also no dispute that Petitioner was the joint owner of the home with her deceased husband [REDACTED] and their son, [REDACTED]. Furthermore, there was no dispute that on July 30, 2025, Petitioner transferred her interest in the property via a Quit Claim Deed to her son, [REDACTED] for \$0 consideration.

It was established that following Petitioner's [REDACTED] 2025, approval of MA under the Plan First program, an MA category that does not have an asset test, Petitioner submitted documentation including letters from her son and a letter denying his pre-approval for a loan, to show that he cannot obtain any financing or loan to purchase the home or a new home to move to. In the letters submitted, Petitioner's son asserted that due to his previous foreclosure history and inability to obtain a loan on his own, his mother and father co-signed the mortgage for the [REDACTED] so that he could purchase the home at issue. Petitioner's son asserted that he is responsible for the monthly payment on the mortgage, taxes, and insurance payments and has been working on his credit so he can refinance the home in his name solely. Petitioner's son also drafted a letter indicating that he refuses to sell the property because it will cause undue hardship. He asserted that the home is his primary residence and there is no readily available housing, as due to his poor credit score, he is unable to secure a loan to purchase another property, and no one will rent to him. Petitioner requested that the Department consider the undue hardship policy in BEM 400. In response, the Department obtained clarification from its eligibility policy review division, which concluded that the undue hardship policy does not apply to Petitioner's situation, as the documentation submitted by Petitioner did not establish that there was no readily available housing for Petitioner's son in [REDACTED] MI.

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Much of the arguments presented at the hearing centered around Petitioner's request for an undue hardship exception to the joint ownership and countable asset policies outlined in BEM 400, which would be applicable if Petitioner was disputing the Department's determination that she was ineligible for MA on the basis that the value of her countable assets exceeded the asset limit. However, these arguments fail to consider that upon executing the Quit Claim Deed on July 30, 2025, Petitioner gave up or eliminated her ownership or control in the property, which is considered a transfer of a resource that must be evaluated for divestment. Additionally, there was no evidence presented that the transfer was for another purpose other than to qualify for MA, as it occurred after Petitioner's admission to LTC. Furthermore, although Petitioner's son asserted in one of the letters submitted that he is responsible for the monthly payment on the mortgage, taxes, and insurance related to the [REDACTED] there was no documentary evidence presented in support of this statement and no evidence presented as to any written agreements made between Petitioner and her son related to the ownership of the [REDACTED] and any financial obligations of the parties. Additionally, there was no additional evidence presented that the [REDACTED] actually belonged solely to Petitioner's son. Thus, the divestment exception policy outlined in BEM 405, at p.4 and referenced above is not applicable.

Because the Department established that there was a transfer of a resource that occurred after Petitioner's baseline date, the Department must then consider whether the transfer was made for less than fair market value. Less than fair market value means that the compensation received in return for a resource was worth less than the fair market value of the resource. That is, the amount received for the resource was less than what would have been received if the resource offered in the open market and in an arm's length transaction. BEM 405, pp. 7-8. To determine the fair market value of real property, the Department can use the State Equalized Value (SEV) on current property tax records multiplied by two. BEM 400, p. 34.

Property tax records presented during the hearing indicate that the SEV of the home at issue is \$70,200. Because no evidence was presented to dispute the Department's conclusion that upon the death of [REDACTED] Petitioner and her son [REDACTED] retained joint and equal ownership of the property, the Department testified that it determined that the Petitioner's ownership interest in the property had a fair market value of \$70,200. Therefore, the transfer of Petitioner's interest to [REDACTED] for \$0 in consideration was for less than fair market value and thus, considered divestment.

Because the Department established that a divestment occurred, an analysis of the computation of the applicable penalty period follows. The Department determined that Petitioner was subject to a divestment penalty for the period between August 1, 2025, and August 27, 2026. Department policy provides that the penalty period is computed based on the total uncompensated value of all resources divested. The uncompensated value of a divested resource of real property is its equity value. BEM 405, pp. 13-15.

Equity value is the fair market value minus the amount legally owed in a written lien provision. BEM 400, p. 34. _____

Once the total uncompensated value is determined, the Department is to divide that amount by the average monthly private LTC Cost in Michigan, which is based on the client's baseline date. This gives the number of full months for the penalty period. The fraction remaining is multiplied by 30 to determine the number of days for the penalty period in the remaining partial month. BEM 405, pp.12-15. The Department will apply the penalty to the months (or days) an individual is eligible for MA and actually in LTC, Home Health, Home Help, or the MIChoice Waiver. _____

The Department representative could not clearly explain how the penalty period was computed but stated that the Department considered the \$70,200 fair market value discussed above and applied the average monthly private LTC costs in Michigan from 2025. However, as discussed above, in computing the penalty period, the Department is to consider the equity value, which takes into account any amount legally owed on the property. The Department failed to establish that the fair market value of the [REDACTED] was the same as its equity value. Additionally, because Petitioner's baseline date is [REDACTED] 2024, the Department is to apply the average monthly private LTC costs in Michigan for the 2024 year.

Upon review, although the Department properly determined that a divestment occurred, the Department failed to establish that it properly computed the divestment penalty period from August 1, 2025, through August 27, 2026.

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 act in accordance with Department policy when it computed the divestment penalty period from August 1, 2025, through August 27, 2026.

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

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Recompute the divestment penalty period for the transfer of the [REDACTED] Property;
2. Supplement Petitioner and/or her provider for any LTC MA benefits she was eligible to receive but did not; and
3. Notify Petitioner and her AHR in writing of its decision.

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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.

