



**Date Mailed:** December 15, 2025

**Docket No.:** 25-037058

**Case No.:** [REDACTED]

**Petitioner:** [REDACTED]

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

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

[REDACTED] MI [REDACTED]

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### **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 December 10, 2025. Petitioner was represented by her Authorized Hearing Representative (AHR) [REDACTED]. The Michigan Department of Health and Human Services (MDHHS or Department) was represented by JoAnna Rivera, Assistance Payments Supervisor.

### **ISSUE**

Did the Department properly determine that Petitioner was subject to a Medical Assistance (MA) divestment penalty period of November 1, 2025, through January 16, 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 [REDACTED] 2024, Petitioner entered a Long Term Care (LTC) facility.
2. On December 16, 2024, Petitioner's home was sold. A portion of the proceeds totaling \$ [REDACTED] was transferred to Petitioner's son in January 2025.
3. On [REDACTED] 2025, an application for MA benefits was submitted on Petitioner's behalf.
4. On October 17, 2025, the Department sent Petitioner a Benefit Notice informing her that she was approved for MA benefits effective November 1, 2025, and that she was subject to a divestment penalty during the period of November 1, 2025, through January 16, 2026.
5. Petitioner's AHR submitted a request a hearing disputing the Department's decision.

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## CONCLUSIONS OF LAW

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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.

In this case, Petitioner sold her home and a portion of the proceeds was transferred to her son in the amount of \$[REDACTED]. The Department considered the transfer to be a divestment and subjected Petitioner to a MA divestment penalty.

Divestment means a transfer of a resource by a client or their spouse that are: (i) within a specified time; (ii) a transfer for less than fair market value; and (iii) is not a transfer that is excluded by policy as a divestment. BEM 405 (January 2019), p. 1. Divestment results in a penalty period in MA, not ineligibility. BEM 405, p. 1. During this penalty period, the Department will not pay for the client's LTC services, home and community-based services, home help or home health. BEM 405, p. 1. Less than fair market value means the compensation received in return for a resource was worth less than the fair market value of the resource. BEM 405, p. 6. The Department will review any transfers after or 60 months prior to the client's baseline date. BEM 405, p. 5. A client's baseline date is the first date that the client was eligible for MA and one of the following: (i) in LTC; (ii) approved for the waiver; (iii) eligible for home health services; or (iv) is eligible for home help services. BEM 405, p. 6.

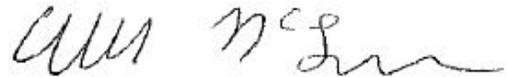
At the hearing, Petitioner's AHR confirmed that Petitioner's cash assets totaling \$[REDACTED] were transferred to her son. Petitioner's AHR testified that Petitioner's son passed away in May 2025, and she had no knowledge as to how the funds were spent. Petitioner's AHR conceded that Petitioner did not realize any value for the transfer of the funds. Therefore, the transfer was for less than fair market value. Petitioner did not provide any evidence that the transfer would be excluded by policy as a divestment. Therefore, the Department properly determined that Petitioner's transfer of the \$[REDACTED] in cash assets was a divestment. Petitioner's AHR did not dispute the calculation of the divestment penalty period. Thus, the Department properly determined that Petitioner was subject to a divestment penalty during the period of November 1, 2025, through January 16, 2026.

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**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 subject Petitioner to a divestment penalty period of November 1, 2025, through January 16, 2026. Accordingly, the Department's decision is **AFFIRMED**.



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**ELLEN MCLEMORE  
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.

25-037058



**Via Electronic Mail:**

**Respondent**

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**Via First Class Mail:**

**Petitioner**

[REDACTED]  
[REDACTED] MI [REDACTED]

**Authorized Hearing Rep**

[REDACTED]  
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