

# MEDICAID POLICY INFORMATION SHEET

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Initial

Public Comment

Final

## Brief description of policy:

A transfer of assets by the applicant or the applicant's spouse to an irrevocable trust "solely for the benefit of" should be evaluated as a divestment.

## Reason for policy (problem being addressed):

To align Michigan Department of Health and Human Services (MDHHS) policy language with the United States Code (42 USC 1396p[c][2]). Current policy does not distinguish between a trust established solely for the benefit of a spouse and trusts established solely for the benefit of a disabled child or individual.

## Budget implication:

budget neutral

will cost MDHHS \$ , and (select one) budgeted in current appropriation

will save MDHHS \$

## Is this policy change mandated per federal requirements?

Yes - 42 USC 1396p(c)(2).

## Does policy have operational implications on other parts of MDHHS?

Yes, the Trust and Annuity Unit within the Bureau of Legal Affairs will need to review trusts using correct standards.

## Does policy have operational implications on other departments?

No

## Summary of input:

controversial

acceptable to most/all groups

limited public interest/comment

## Supporting Documentation:

State Plan Amendment Required: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Public Notice Required: <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No
If Yes, please provide status: <input type="checkbox"/> Approved <input type="checkbox"/> Pending <input type="checkbox"/> Denied	If yes, Submission Date:
Date: Approval	Date:



# Proposed Policy Draft

Michigan Department of Health and Human Services  
Medical Services Administration

**Distribution:** Bridges Eligibility Manual (BEM) Holders

**Issued:** September 1, 2020 (Proposed)

**Subject:** Supplemental Security Income (SSI)-Related Medicaid Asset Policy Trusts

**Effective:** October 1, 2020 (Proposed)

**Programs Affected:** SSI-Related Medicaid Programs

This bulletin will align the Michigan Department of Health and Human Services (MDHHS) BEM with the United States Code (42 USC 1396p[c][2]). Current MDHHS policy does not distinguish between a trust established "solely for the benefit of" a spouse and a trust established "solely for the benefit of" a blind or disabled child, or a disabled individual under age 65.

All SSI-related Medicaid categories incorporate an asset limit into the needs test for eligibility. When an applicant gives away assets in order to become eligible for Medicaid it is called divestment or divesting of resources. When the applicant has given away the resources within the 60 months prior to applying for and being found eligible for home help, home health, waiver services, or long-term care, the divestment triggers a period of time during which the Medicaid program will not pay for the covered services (i.e., a divestment penalty period). Certain transfers involving the client's spouse, blind or disabled child, or disabled individual under age 65 are not divestment. It is not a divestment to transfer resources directly to a blind or disabled child, to a trust solely for the benefit of a child who is blind or disabled, or to a trust solely for the benefit of a disabled person under age 65. Transfers from the client directly to the client's spouse, or to another solely for the benefit of the client's spouse, are also not divestment.

Effective October 1, 2020, all transfers by the applicant or the applicant's spouse to a trust established solely for the benefit of the client's spouse will be evaluated for divestment, which will bring the MDHHS BEM 405 policy in alignment with 42 CFR 1396p(c)(2).