

MICHIGAN DEPARTMENT OF COMMUNITY HEALTH

NOTICE OF PROPOSED POLICY

Public Act 280 of 1939, as amended, and consultation guidelines for Medicaid policy provide an opportunity to review proposed changes in Medicaid policies and procedures.

Please review the policy summary and the attached materials that describe the specific changes being proposed. Let us know why you support the change or oppose the change.

Submit your comments to the analyst by the due date specified. Your comments must be received by the due date to be considered for the final policy bulletin.

Thank you for participating in the consultation process.



Director, Program Policy Division  
Bureau of Medicaid Policy and Health System Innovation

<b>Project Number:</b>	1201-Eligibility	<b>Comments Due:</b>	March 19, 2012	<b>Proposed Effective Date:</b>	May 1, 2012
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**Policy Subject:** Medicaid Eligibility and Divestment Penalties

**Affected Programs:** All Medicaid programs which can incur a divestment penalty

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

**Policy Summary:** Additions of certain terms to the BEM glossary will help local office specialists to determine whether an asset was divested or if there is the potential for elder abuse. While these additions and updates are not changes to policy they formalize policy definitions and are the terms used by the legal community. The glossary additions are: Arm Length Transaction, Fair Market Value, Homestead, and Resource.

**Purpose:** By defining these terms, specialists are better able to determine if the relationship between two parties has impacted the free and fair transaction that would exist if the parties were not related, creating an unequal balance of power in the transaction.

# Proposed Policy Draft

Michigan Department of Community Health  
Medical Services Administration

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

**Issued:** April 1, 2012 (Proposed)

**Subject:** Medicaid Eligibility and Divestment Penalties

**Effective:** May 1, 2012 (Proposed)

**Programs Affected:** Medicaid Programs which can incur a divestment penalty

Additions to the BEM glossary of certain terms will help local office specialists to determine whether an asset was divested or if there is the potential for elder abuse. While these additions and updates are not changes to policy, they formalize policy definitions used by the legal community.

Specifically the definitions are:

- Arm Length Transaction (new definition added to glossary)
- Fair Market Value (expanded definition added to glossary)
- Homestead (expanded definition added to glossary)
- Resource (definition added to glossary from chapter)

As they appear in the glossary:

*Arm Length Transaction: A transaction between two parties who are not related and are presumed to have roughly equal bargaining power. It consists of three elements; it is voluntary, each party is acting in their own self-interest, and it is on an open market. By definition a transaction between two relatives is not an arm's length transaction.* (Italics indicates new language)

*Fair Market Value: The amount of money the owner would receive in the local area for his asset (or his interest in an asset) if the asset (or his interest in the asset) was sold on short notice, possibly without the opportunity to realize the full potential of the investment. That is, what the owner would receive and a buyer willing to pay on the open market and in an arm's length transaction.* (Italics indicates new language)

*Homestead: The residence that a person owns (or is buying) and usually lives. The homestead includes all adjoining property, any other buildings on the property, but does not include other residences on the property.* (Italics indicates new language)

*Resource: All the client and spouse's assets and income. That is, all cash and any other personal property, as well as any real property that an individual (or the spouse) owns, has the right or power to convert to cash, and is not legally restricted from using for the individual's support and maintenance. An asset does not stop being a resource just because it has no current market value.* (Italics indicates new language)