

MICHIGAN DEPARTMENT OF HEALTH AND HUMAN SERVICES

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, Operations, and Actuarial Services

<b>Project Number:</b> 2140-Eligibility	<b>Comments Due:</b> August 31, 2022	<b>Proposed Effective Date:</b> October 1, 2022
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**Policy Subject:** Spousal Impoverishment Rules; Patient Pay Amounts; and Estate Recovery

**Affected Programs:** MI Choice Waiver

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

**Policy Summary:** This policy updates spousal impoverishment rules to include MI Choice waiver participants.

**Purpose:** The purpose of this policy is to update, clarify, and correct spousal impoverishment and Patient Pay Amounts policy for the MI Choice waiver program in BEM 106. Informational language on the Estate Recovery program is also added.

# Proposed Policy Draft

Michigan Department of Health and Human Services  
Behavioral and Physical Health and Aging Services Administration

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

**Issued:** September 1, 2022 (Proposed)

**Subject:** Spousal Impoverishment Rules; Patient Pay Amounts; and Estate Recovery

**Effective:** October 1, 2022 (Proposed)

**Programs Affected:** MI Choice Waiver

## **Spousal Impoverishment Rules**

The purpose of this policy is to update, clarify, and correct spousal impoverishment policy language for the MI Choice waiver program in BEM 106 and BEM 402.

Spousal impoverishment policy is part of the Social Security Act. The spousal impoverishment policy helps ensure that when one member of a married couple enters a nursing facility the spouse living in the community is able to live out their lives with independence and dignity by protecting a certain amount of the couple's combined resources for the community spouse. Michigan applies spousal impoverishment policy to couples when a spouse enters a nursing facility. Since the start of the HCBS waivers in Michigan, MDHHS has also applied spousal impoverishment policy to married individuals eligible for HCBS waivers, even though the couple continues to live together in the community. HCBS waivers include the MI Choice waiver program, and the policy is found in BEM 106.

The spousal impoverishment language in BEM 402 is specific to couples where one spouse is entering a nursing facility. The language does not easily cross over to couples where a spouse is enrolling in the HCBS waivers, where the couple will remain in their home. This has led to some confusion for applicants and providers of waiver services. As a result of feedback from providers and local MDHHS office staff, the language covering spousal impoverishment rules in BEM 106 is being refined and instructions added to refer to spousal impoverishment policy in BEM 402, which has been expanded to include policy to cover waiver applicants.

## **Patient Pay Amounts**

Policy in BEM 106 incorrectly indicates the patient pay amount (PPA) is eliminated when a nursing facility resident moves to waiver. The correct policy is found in BEM 546, Post Eligibility Patient Pay Amount and the language in BEM 106 has been removed. Any return of overpayments to the facility by the resident is addressed in provider policy, not eligibility policy.

(Refer to the [MDHHS Medicaid Provider Manual](#) for additional information.) The language is removed from BEM 106 effective January 1, 2022.

**Estate Recovery**

Additional information on estate recovery and trusts was added to Trust policy in BEM 401. Trusts are evaluated by the Trust and Annuity unit in Legal Affairs office and not by local MDHHS office staff.