

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>	1517-Eligibility	<b>Comments Due:</b>	April 29, 2015	<b>Proposed Effective Date:</b>	June 1, 2015
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**Mail Comments to:** Bridget Heffron  
Bureau of Medicaid Policy and Health System Innovation  
Medical Services Administration  
P.O. Box 30479  
Lansing, Michigan 48909-7979

**Telephone Number:** 517-335-3526      **Fax Number:** 517-241-8969  
**E-mail Address:** [eligibilitypolicy@michigan.gov](mailto:eligibilitypolicy@michigan.gov)

**Policy Subject:** Assets for Medicaid Eligibility

**Affected Programs:** Supplemental Security Income (SSI)-Related Medicaid

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

**Policy Summary:** The purpose of this policy is to add language to the BEM to address the purchase of an annuity solely for the benefit of a community spouse and Medicaid asset eligibility.

**Purpose:** No policy existed in the past, leaving local Department of Human Services (DHS) offices to fill the void without guidance from the BEM.

# Proposed Policy Draft

Michigan Department of Community Health  
Medical Services Administration

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

**Issued:** May 1, 2015 (Proposed)

**Subject:** Assets for Medicaid Eligibility

**Effective:** June 1, 2015 (Proposed)

**Programs Affected:** Supplemental Security Income (SSI)-Related Medicaid

Supplemental Security Income (SSI)-related Medicaid programs (which include most programs for the aged or disabled) have an asset test as part of the eligibility determination. Federal and state regulations determine whether an asset is considered countable for the asset test or if the asset is excludable.

There are special rules for assets when the individual applying for Medicaid under the Extended Care category (nursing home) has a spouse. The federal regulations covering the treatment of certain annuity assets were last changed under the Deficit Reduction Act (DRA) of 2005, in an attempt to discourage the use of certain Medicaid planning techniques and to impose penalties on transactions that are intended to protect wealth while enabling the applicant to access public benefits.

While the DRA addressed annuities purchased by an applicant and appeared to have addressed the conditions for the exclusion of an annuity purchase by the spouse, there has been a decision from the US District Court in Ohio that specifically addresses the purchase of an annuity by a community spouse solely for the community spouse. With this decision, the Court has determined such an annuity does not have to name the state as a remainder beneficiary as a condition in order to exclude the annuity as a resource under federal regulation. The decision did not address any of the other conditions for exclusion of an annuity imposed by the DRA.

There has been no policy in the Bridges Eligibility Manual (BEM) that addressed this specific situation, leaving the local Department of Human Services (DHS) offices to discern their own treatment of annuities purchased by the spouse and solely for the use of the spouse. Policy language is being added to the BEM to address this specific situation.