

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HEALTH AND HUMAN SERVICES**

IN THE MATTER OF:

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████████████████████
████████████████████

Reg. No.: 15-013832
Issue No.: 2001
Case No.: ██████████
Hearing Date: September 23, 2015
County: Wayne-District 19

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

Following Claimant'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 telephone hearing was held on September 23, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant. Participants on behalf of the Department of Health and Human Services (Department) included ██████████, Hearing Facilitator.

ISSUE

Did the Department properly determine Claimant's minor child's Medicaid, or Medical Assistance (MA), eligibility?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant's child was the ongoing recipient of full-coverage MA benefits under the Under 19 (U19) program (Exhibit A, p. 1).
2. Claimant receives employment income and gross monthly Retirement, Survivors and Disability Insurance (RSDI) income; her child receives RSDI income based on Claimant's RSDI income.
3. In connection with a redetermination concerning her household's ongoing MA eligibility, Claimant submitted paystubs showing her employment income and the Department recalculated Claimant's child's MA eligibility.

4. On July 8, 2015, the Department sent Claimant a Health Care Coverage Determination Notice, notifying her that her child was not income eligible for MA under the U19 program but she was eligible effective August 1, 2015 for MA with a monthly \$3289 deductible (Exhibit B).
5. On July 20, 2015, Claimant filed a request for hearing disputing the Department's actions.

CONCLUSIONS OF LAW

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.

Children under age 19 are eligible for MA under two programs: (1) the U19 program which provides full-coverage MA to children age 1 to 19 when the household's income does not exceed 160% of the federal poverty level (FPL) and (2) the Group 2 Under 21 (G2U) program which provides for MA coverage subject to a monthly deductible when income exceeds the income limit for U19 coverage. BEM 105, p. 1; BEM 132 (January 2015), p. 1; Michigan Department of Community Health, Modified Adjusted Gross Income (MAGI) Related Eligibility Manual, § 5.2, *available at* http://www.michigan.gov/documents/mdch/MAGI_Manual_457706_7.pdf.

In determining U19 income-eligibility, 160% of the annual FPL in 2015 for a household with two members is \$25,488. <http://aspe.hhs.gov/POVERTY/15poverty.cfm>. If an individual is within 5% of the FPL for the applicable group size, a disregard is applied, making the person eligible for MA. MAGI Related Eligibility Manual, § 7.2. Therefore, Claimant's child is income-eligible for U19 coverage if the household's annual income does not exceed \$25,488, or, with the 5% disregard, if the household's annual income does not exceed \$26,762.40.

Even if the Department properly concluded that Claimant's child was not income eligible for full-coverage MA coverage under the U19 program, the Department must consider her eligibility under the G2U program. Group 2 eligibility for MA coverage is possible

even when net income exceeds the income limit. BEM 105, p. 1. In such cases, the client is eligible for MA coverage with a deductible, with the deductible equal to the amount the net income (countable income minus allowable income deductions) exceeds the applicable Group 2 MA protected income level (PIL). The PIL is based on the client's shelter area (county in which the client resides) and fiscal group size. BEM 132 (July 2013), p. 2; BEM 544 (July 2013), p. 1; RFT 240 (December 2013), p. 1.

In this case, Claimant has both unearned RSDI income and earned income. The child also receives RSDI income based on Claimant's receipt of RSDI. The Department testified that in calculating Claimant's gross monthly earned income it relied on the paystubs she submitted in connection with her redetermination showing \$1040 paid on June 10, 2015 and \$1144 received on June 26, 2015. However, Claimant testified at the hearing that she worked as an education paraprofessional and was only paid on the days that students were in school. As a result, her income fluctuated. In prospecting income for MA purposes, the Department must estimate income to be received in a future month. BEM 530 (January 2014), p. 4. For fluctuating income, the Department can estimate earnings by using the expected hourly wage and hours to be worked or a paystub showing year-to-date earnings and frequency of pay. BEM 530, p. 4.

In this case, Claimant reported being paid \$13 per hour (\$19.50 for overtime) and working 36 hours weekly. At the hearing, she presented an August 26, 2015 paystub showing gross year-to-date income totaling \$15,465.71. The reported income and the year-to-date gross earnings both result in income for MA purposes less than that calculated using the June 2015 paystubs. Claimant also testified that her RSDI income fluctuated based on her employment income, and it had decreased from \$1160.90 to \$950.40 effective September 1, 2015. Based on evidence that Claimant earned less than considered by the Department and that her RSDI income fluctuated, the Department has failed to establish that it correctly calculated Claimant's income for purposes of determining the child's income eligibility for U19 coverage or for purposes of calculated Claimant's prorated income in the G2-FIP related MA budget (Exhibit C).

Furthermore, the G2-FIP related budget fails to deduct as allowable need expenses health insurance premiums paid by Claimant. Allowable need expenses in a Group 2 budget include the cost of any health insurance premiums (including vision and dental insurance) and Medicare premiums paid by the medical group regardless of who the coverage is for. BEM 544 (July 2013), p. 1. In this case, Claimant's child's fiscal group includes Claimant. BEM 544, p. 3; BEM 211 (January 2015), p. 6. Claimant's paystub (Exhibit 1) shows that she pays medical, vision and dental insurance. The Department also testified that Claimant paid for Part B Medicare premiums. The Department failed to act in accordance with Department policy when it failed to include these expenses in the child's deductible budget.

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 did not

act in accordance with Department policy when it concluded that Claimant's child was eligible for MA subject to a \$3289 monthly deductible.

DECISION AND ORDER

Accordingly, the Department's decision is **REVERSED**.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Recalculate Claimant's child's MA eligibility under U19 and G2U for August 1, 2015 ongoing;
2. Provide the child with MA coverage she is eligible to receive from August 1, 2015 ongoing; and
3. Notify Claimant in writing of its decision.



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **10/01/2015**

Date Mailed: **10/01/2015**

ACE / tlf

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date. A copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from MAHS within 30 days of the mailing date of this Hearing Decision, or MAHS **MAY** order a rehearing or reconsideration on its own motion. MAHS **MAY** grant a party's Request for Rehearing or Reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

cc:

[REDACTED]
[REDACTED]
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