



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: June 10, 2016
MAHS Docket No.: 16-004704
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

HEARING DECISION

Following Petitioner'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 May 16, 2016, from Detroit, Michigan. The Petitioner appeared for the hearing with her daughter, [REDACTED], and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearings Facilitator.

ISSUE

Did the Department properly terminate Petitioner's children's Medical Assistance (MA) benefits?

FINDINGS OF FACT

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

1. Petitioner's two minor sons, Child A ([REDACTED]) and Child B ([REDACTED], [REDACTED]) were ongoing recipients of MA under the MIChild program.
2. In connection with a redetermination, Petitioner's sons' eligibility for MA was reviewed.
3. Petitioner reported on the redetermination that she, her husband, and her adult daughter receive employment income. (Exhibit A)

4. Petitioner also reported on the redetermination that she, her husband, and her adult daughter contribute annually to IRAs that are deducted on a federal income tax return. (Exhibit A)
5. On March 15, 2016, the Department sent Petitioner a Health Care Coverage Determination Notice (Notice) advising that effective April 1, 2016, Child A and Child B were ineligible for MA under the MICHild program on the basis that countable income exceeds the income limit for the group size. The Notice did not identify which amount of annual income was used to determine Child A and Child B's Health Care Coverage, however. (Exhibit D)
6. On March 30, 2016, Petitioner requested a hearing disputing the Department's actions, specifically indicating that her MAGI was below the income limit for MICHild eligibility and that she has retirement contributions that were not considered in the income eligibility determination. (Exhibit 1)

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.

Petitioner disputes the Department's closure of her sons' MA cases. The Department explained that after processing Petitioner's redetermination, her children were income-ineligible for MICHild coverage.

MA is available (i) under SSI-related categories to individuals who are aged (65 or older), blind or disabled, (ii) to individuals who are under age 19, parents or caretakers of children, or pregnant or recently pregnant women, and (iii) to individuals who meet the eligibility criteria for HMP coverage. BEM 105 (October 2014), p. 1. The evidence at the hearing established that Petitioner's children, [REDACTED] were previously eligible only for MA under the MICHild category.

MICChild is a FIP-related Medicaid Expansion program for children who are under 19 years of age (U-19) and who have no other health coverage. MICChild income eligibility is determined according to the rules of the Modified Adjusted Gross Income (MAGI) formula. Countable income as determined by MAGI rules cannot exceed 212 percent of the federal poverty level. BEM 130 (January 2016), pp. 1-3.

In this case, the Department concluded that Petitioner's children were not eligible for MICChild coverage because the countable income exceeded the applicable income limit. An individual is eligible for MICChild if the household's income does not exceed 212% of the FPL applicable to the individual's group size. Group composition for MAGI-related categories follows tax filer and tax dependent rules. The size of a household for MAGI-related MA purposes will be determined by the principles of tax dependency in the majority of cases. BEM 211 (January 2016), pp. 1-4. Petitioner testified that she and her husband file taxes jointly and that three people (two minor children and one adult child who does not file her own taxes) are claimed as dependents. Therefore, Petitioner has a household size of five. BEM 211, pp. 1-4. 212% of the FPL in 2016 for a household with five members is \$60,292.80. See <https://aspe.hhs.gov/poverty-guidelines>. Therefore, for Petitioner's children to be income eligible for MICChild, the annual income cannot exceed \$60,292.80.

At the hearing, however, it was unclear based on the Department's testimony and the documents presented which household size was used by the Department in its determination that the group had excess income. The MAGI Determination Summary document reflects a tax return group size of five and conversely, the Hearing Summary indicated the household group size applicable to Petitioner's case was four. (Exhibit E).

Additionally, to determine financial eligibility under MICChild, income must be calculated in accordance with Modified Adjusted Gross Income (MAGI) under federal tax law. BEM 500 (January 2016), p. 3. MAGI is based on Internal Revenue Service rules and relies on federal tax information. BEM 500 (January 2016), p. 3. Income is verified via electronic federal data sources in compliance with MAGI methodology. MREM, § 1. In determining an individual's eligibility for MAGI-related MA, 42 CFR 435.603(h)(2) provides that "for individuals who have been determined financially-eligible for Medicaid using the MAGI-based methods . . . , a State may elect in its State plan to base financial eligibility either on current monthly household income . . . or income based on projected annual household income . . . for the remainder of the current calendar year."

In this case, the Department could not identify the total annual income that it determined and the Notice did not identify which amount of annual income was used to determine Child A and Child B's Health Care Coverage. The Department stated that it relied on paystubs provided and considered monthly gross employment earnings for Petitioner in the amount of \$300 and \$4200 in monthly gross employment earnings for Petitioner's husband. (Exhibit B; Exhibit C). There was evidence presented that Petitioner's ■■■ year old daughter, a household member also had monthly gross earnings from employment, however, it was unclear if this amount was included in the Department's calculation of

total annual income determination or if it was required to be included per Department policy. (Exhibit B; Exhibit C).

In order to determine income in accordance with MAGI, a client's adjusted gross income (AGI) is added to any tax-exempt foreign income, tax-exempt Social Security benefits, and tax-exempt interest. AGI is found on IRS tax form 1040 at line 37, form 1040 EZ at line 4, and form 1040A at line 21. Alternatively, it is calculated by taking the "federal taxable wages" for each income earner in the household as shown on the paystub or, if not shown on the paystub, by using gross income before taxes reduced by any money the employer takes out for health coverage, child care, or retirement savings. The figure is multiplied by the number of paychecks the client expects in 2016 to estimate income for the year. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>.

Although the paystubs provided to the Department by Petitioner reflect the same amount of monthly earnings for gross pay per period and federal taxable wages per period, Petitioner testified and the redetermination completed by Petitioner indicates that annual contributions are made to IRAs for the adult household members. (Exhibit A; Exhibit B; Exhibit C). IRA contributions are to be deducted or excluded from the calculation of gross income when determining MAGI, however. See http://laborcenter.berkeley.edu/pdf/2013/MAGI_summary13.pdf. Because Petitioner reported on her redetermination that her group has annual IRA contributions that are deducted on her federal income tax return, the Department should have requested verification of such contributions prior to making its determination that Petitioner's group had excess income thereby resulting in her children's ineligibility for MICHild MA coverage.

After a thorough review, the Department did not act in accordance with Department policy when it determined, based on Petitioner's gross income as shown on the paystubs, rather than the MAGI calculation of income, that Petitioner's children were not income-eligible for MA under the MICHild category. It should be noted that because the retirement contributions do not appear to be reduced from Petitioner or her husband's monthly pay through their employer, a federal income tax return or more detailed verification showing the applicable deductions to gross income, pre-tax contributions or federal taxable wages may be a more accurate reflection of Petitioner's MAGI for MA purposes.

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 closed Petitioner's children's MA case.

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. Reinstate Petitioner's sons' (Child A and Child B) MA cases under the MIChild MA program effective April 1, 2016;
2. Reprocess Child A and Child B's eligibility for MIChild coverage using accurate income verifications and in accordance with Department policy;
3. Provide Child A and Child B with MA coverage they are eligible to receive from April 1, 2016 ongoing; and
4. Notify Petitioner in writing of its decision



ZB/tlf

Zainab A. Baydoun
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

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

[REDACTED]

[REDACTED]

[REDACTED]

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