



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: December 9, 2016
MAHS Docket No.: 16-014856
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 [REDACTED], from Detroit, Michigan. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly determine that Petitioner's son was eligible for Medicaid (MA) under the Group 2 Under 21 (G2U) program subject to a \$[REDACTED] monthly deductible?

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 is the father and caretaker of a minor child born [REDACTED].
2. The child was removed from his mother's care and placed in foster care with Petitioner (Exhibit A).
3. Petitioner is a tax filer and claims his child as a dependent.
4. On [REDACTED], Petitioner filed an MA application for his son.

5. On [REDACTED], Petitioner submitted a Health Care Coverage Supplemental Questionnaire identifying two places of employment (Exhibit B).
6. Based on paystubs Petitioner submitted, the Department prospectively determined Petitioner's gross monthly income for MA purposes from [REDACTED] to be \$ [REDACTED] and his gross monthly pay from [REDACTED] to be \$ [REDACTED] (Exhibits C and J).
7. The information retrieved from the federal database for MAGI-related purposes showed gross monthly income of \$ [REDACTED] (Exhibit D).
8. On [REDACTED], the Department sent Petitioner a Health Care Coverage Determination Notice notifying Petitioner that his son was eligible for MA with a \$ [REDACTED] deductible for [REDACTED] and with a \$ [REDACTED] deductible for [REDACTED] ongoing. The Notice also advised Petitioner that his son's eligibility was considered under the Under Age 19 and MiChild categories but he was ineligible because of excess income. (Exhibit F).
9. On [REDACTED], the Department received Petitioner's request for hearing disputing the Department's decision.

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 appealed the Department's finding that his son was eligible for MA subject to a \$ [REDACTED] monthly deductible. At the hearing, the Department explained that all the categories of MA available to a minor child were considered; and the child was only eligible for MA under a deductible program. It was noted that Petitioner's child was placed with Petitioner, as the non-custodial parent, pursuant to a foster care court order (Exhibit A). While there is an MA category for children who are Department wards, a child is not eligible for foster-care MA if living with a parent. BEM 117 (October 2015), p. 1. Therefore, the Department properly concluded that Petitioner's son was not eligible for MA for children in foster care.

Children over age 1 and under age 19 who are not eligible for MA for foster care children are potentially eligible for MA under three programs: (1) the Under Age 19 (U19) program; (2) the MiChild program; and (3) the Group 2 Under 21 (G2U) program. BEM 105 (July 2016), p. 1, 3-4; BEM 130 (July 2016), p. 1; BEM 131 (June 2015), p. 1; BEM 132 (January 2015), p. 1. The U19 program is a Modified Adjusted Gross Income (MAGI)-related Group 1 MA category, meaning that it provides full-coverage MA without a deductible for children whose household's income, calculated in accordance with MAGI rules, meets the income eligibility limits. BEM 131, p. 1. Income eligibility for MiChild is also determined according to MAGI rules. BEM 130, p. 1. Children whose household income exceeds the income limit for U19 or MiChild eligibility are eligible for MA under the G2U category, with a deductible equal to the amount the child's net income (countable income minus allowable income deductions) exceeds the applicable Group 2 MA protected income level (PIL), which is based on the county in which the child resides and child's fiscal group size. BEM 132, p. 2; BEM 544 (July 2016), p. 1; RFT 240 (December 2013), p. 1. Under federal law, the child is entitled to the most beneficial category, which is the one that results in eligibility, the least amount of excess income, or the lowest cost share. BEM 105, p. 2.

In this case, the Department concluded that Petitioner's child was income-ineligible for MA coverage under either the U19 or MiChild categories. There are three U19 categories for children under age 6: the Low Income Families (LIF) program applies when the household's income does not exceed 54% of the federal poverty level (FPL); the Other Healthy Kids (OHK) program applies when the household's income is between 54% and 143% of the FPL; and the Healthy Kids Expansion (HKE) program applies when the household's income is between 143% and 160% of the FPL. BEM 131 (June 2015), p. 1. A child between ages 1 through 18 whose household income is between 160% and 212% of the FPL is income eligible for MiChild subject to a monthly \$10 premium per family. BEM 130 (July 2016), pp. 1-2. If a group's MAGI income is within 5% of the FPL limit, the individual will be found eligible under the applicable category. 42 CFR 603(d)(4).

In order to determine income eligibility for MAGI-related U19 and MiChild programs, the household's MAGI income must be considered. In this case, the minor child lives with Petitioner, Petitioner is a tax-filer, and he claims the child as his tax dependent. Therefore, the child had a household size of two. See BEM 211 (January 2016), pp. 1-2. 160% of the annual 2016 FPL for HKE eligibility for a two-person household is \$25,632, or \$26,433 when the 5% disregard is applied. 212% of the annual 2016 FPL for MiChild eligibility for a two-member household is \$33,962.40, or \$34,763.40 when the 5% disregard is applied.

In this case, the Department testified that it relied on information retrieved from the federal database in determining MAGI eligibility. This shows gross monthly income of \$[REDACTED]. A calculation of Petitioner's gross monthly income based on paystubs he provided to Department from his two employers (Exhibits J and K) shows gross monthly income totaling \$[REDACTED] (\$[REDACTED] from [REDACTED] and \$[REDACTED] from [REDACTED]).

slightly more than showing on the Department's calculation (Exhibit C). Because the Department must consider current monthly household income and family size in determining MAGI MA eligibility for applicants (42 CFR 435.603(h)(1)), Petitioner's income based on paystubs provided should be used in determining the child's eligibility for LIF, OHK, HKE, and MICHild MA.

In determining 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. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>

Petitioner's paystubs show deductions from Petitioner's Baker Aerospace income for health, health, and vision insurance. The monthly total of these deductions, based on weekly \$ deductions, is \$ Petitioner's gross monthly income of \$ reduced by the \$ health care deductions results in AGI income of \$ Because Petitioner has no add-ins, this is also his MAGI income. Based on gross monthly MAGI income of \$ Petitioner has annual income of \$ Based on Petitioner's MAGI income of \$ the child is not income eligible for MA under any of the MAGI-related policies. Therefore, the Department properly concluded that the child was not eligible for MA under LIF, HKE, OHK, or MICHild.

Even though the child is not eligible for MA under any of the full-coverage MAGI-related policies, the Department concluded that he was eligible for MA under a G2U program, with MA subject to a monthly deductible of \$ for and \$ for . An individual under age 21 who is not eligible for MA under MAGI-related policies is eligible for MA under a Group 2 Under 21 (G2U) category when he meets all eligibility requirement other than income. BEM 132 (January 2015), 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, p. 2; BEM 544 (July 2016), p. 1; RFT 240 (December 2013), p. 1.

The Department presented a G2-FIP-related MA budget showing the calculation of the deductible for (Exhibit I). The PIL for Petitioner's son, who lives with Petitioner in County, is \$ as shown on the budget. RFT 240, p. 1; RFT 200 (December 2013), p. 2.

The budget shows that the Department calculated Petitioner's pro-rated income at \$ However, based on gross monthly income of \$ and Petitioner having one dependent in the household, Petitioner's prorated income, and consequently, the

child's net income, is slightly less than calculated on the budget. See BEM 536 (April 2016), pp. 1-6). Furthermore, in calculating the deductible, allowable need expenses in a Group 2 budget include the cost of any health insurance premiums (including vision and dental insurance) paid by the medical group regardless of who the coverage is for. BEM 544 (July 2016), p. 1. In this case, Petitioner's child's fiscal group includes Petitioner. BEM 544, p. 3; BEM 211 (January 2016), p. 5. As discussed above, Petitioner pays monthly health insurance totaling \$[REDACTED]. Because the Department did not take into consideration this allowable need expense in calculating Petitioner's son's deductible, the Department did not act in accordance with Department policy in calculating the deductible.

DECISION AND ORDER

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 acted in accordance with Department policy when it concluded that Petitioner's son was not eligible for MA under any MAGI-related category and was eligible for MA only under the G2U program with a monthly deductible but did not act in accordance with Department policy when it calculated the child's deductible under the G2U category.

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 Petitioner's son's MA deductible for [REDACTED] ongoing;
2. Provide the child with MA he is eligible to receive from [REDACTED] ongoing; and
3. Notify Petitioner in writing of its decision.

ACE/tlf



Alice C. Elkin
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

DHHS

[REDACTED]

Petitioner

[REDACTED]

Via Email

[REDACTED]