



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: January 13, 2017
MAHS Docket No.: 16-015619
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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, an in person hearing was held on December 15, 2016, from Southfield, Michigan. The Petitioner was represented by herself, [REDACTED] also appeared. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly deny/close the Petitioner's sons Medical Assistance?

FINDINGS OF FACT

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

1. The Petitioner's minor child was found eligible for Medical Assistance for Other Healthy Kids (OHK), a full coverage Medicaid program after being in the hospital for more than 30 days in October 2012.
2. A redetermination was completed on [REDACTED] and returned on [REDACTED], [REDACTED] Exhibit B
3. On [REDACTED] the Petitioner's minor child's medical assistance case was closed due to excess income.

4. Pay stubs were submitted as part of the redetermination for the earned income for the Petitioner and her spouse. Exhibit B, p. 10-11 and Exhibit C
5. The Department issued a Health Care Coverage Determination Notice on [REDACTED] denying the Petitioner's minor child's medical assistance, finding the child was not eligible as the countable income for the household exceeded the income limit for the MA program.

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.

In this case, the Department closed the Petitioner's minor child's medical assistance after a redetermination. The redetermination was completed for September 1, 2016. Exhibit B. The child was determined not eligible due to excess income for the MI Child medical program and the Under Age 19 medical program (U19). Exhibit D. The Department issued a Health Care Coverage Determination Notice dated September 16, 2016, closing the child's medical assistance. Exhibit D. (The Child had been receiving full Medicaid).

The Department received pay stubs from the Petitioner and her spouse (who are both tax filer's pursuant to the redetermination). Based upon the group income, and a medical group size of 5, the Petitioner's child was no longer eligible for medical assistance as the income exceeded the applicable program income limit. As part of the redetermination, the Department must determine group income as part of the eligibility determination. Department policy provides.

Income eligibility exists when net income does not exceed the Group 2 needs in BEM 544. Apply the Medicaid policies in BEM 500, 530 and 536 to determine net income.

If the net income exceeds Group 2 needs, Medicaid eligibility is still possible. See BEM 545. BEM 132 (January 1, 2015) p.2

A determination of a client's income eligibility for MI Child and U 19 MA programs both programs for children, is determined under the MAGI methodology and requires determination of the client's household size and the applicable income limit for that group size. The Petitioner's redetermination demonstrated a household size of 5. Therefore, for MAGI purposes, she has a household size of five. 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 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/>

The Petitioner provided two pay stubs and is paid biweekly. Neither the Petitioner's nor her spouse's paystubs show deductions based upon health care or retirement contributions, thus the gross pays must be used. The gross pay amounts for the petitioner were [REDACTED] for the period [REDACTED] and [REDACTED] for the period [REDACTED]. To calculate the gross annual income, the pays are added together and divided by 2 to get the average biweekly income, which is [REDACTED], and then multiplied by 26 weeks. This results in annual income of [REDACTED]. The Petitioner's spouse also has income and is paid weekly. Five of his paystubs using the gross pay amounts were also added together and then divided by 5 resulting in a weekly pay of [REDACTED]. The weekly pay is then multiplied by 52 and results in annual income of [REDACTED]. Based upon the pays received, the group annual income is [REDACTED]. This annual income amount is the income which is used to determine eligibility for the MA programs for children. The Department's calculation of the monthly income was [REDACTED] for Petitioner and [REDACTED] for her spouse. These numbers do not appear correct, and are lower than the above calculations which are based upon the pay stubs provided.

MIChild is a MAGI-related Medicaid Expansion program for children who are under 19 years of age and who have no other health coverage. BEM 130 (July 2016), p. 1. MIChild income eligibility for children aged 0-1 year ranges from 195-212% of the Federal Poverty Level (FPL). BEM 130, p. 1. MIChild income eligibility for children 1 through 18 years of age ranges from 160-212% of the FPL. BEM 130, p. 1. Other eligibility criteria for MIChild is the same as Children under 19 (U19) with the exception of comprehensive insurance and premium payments.

A review of the redetermination indicates that the Petitioner's child is covered on Petitioner's Blue Cross policy and thus would not be eligible for the program. Exhibit B p. 6. Even without this insurance coverage, based upon income eligibility requirements

that the household income not exceed 212% of the FPL the Petitioner's child would not be income eligible. The FPL for a family of 5 is \$28,440 in 2016. The income limit would be \$60,292, ($\$28,440 \times 2.21 = \$60,292$). Based upon the household income as calculated above, the Petitioner's child would not have been income eligible as well. The poverty guidelines are available at:

http://michigan.gov/documents/mdch/MAGI_Manual_457706_7.pdf. The 2016 Poverty Guidelines for the 48 Contiguous States and the District of Columbia indicated that the poverty guidelines for persons in family/household size of five is \$28,440. 2016 Poverty Guidelines, *U.S. Department of Health & Human Services*, January 25, 2016, p. 1. Available at: <https://aspe.hhs.gov/poverty-guidelines>.

The Medicaid Programs below are also available for children and require that the household income be below the poverty limit percentages listed below. As can be seen based upon the income evidence presented, the Petitioner's group income exceeds the Federal Poverty Limits for those programs. BEM 131, (June 1, 2015), p. 1.

Medicaid (MA) Only

Under Age 19 (U-19/HKE) is a MAGI-related MA category.

U-19 Medicaid is available to children under the age of 19 whose household income does not exceed the Federal Poverty Level (FPL). There are different MAGI U-19 categories which are defined by the household income. The MAGI U-19 income limits for Low Income Families (LIF), Other Healthy Kids (OHK) and the Healthy Kids Expansion (HKE) are:

- MAGI U-19 LIF 0-54% of the FPL for children aged 0-19.
- MAGI U-19 OHK 54-143% of the FPL for children aged 0-19
- MAGI U-19 HKE 143-160% of the FPL for children aged 0-6
- MAGI U-19 HKE 109-160% of the FPL for children aged 6-19
- Income eligibility exists when net income does not exceed 160% of the federal poverty level. BEM131, p.2

The only program not considered by the Department which will result in a deductible is the Group 2 U-21 found in BEM 544. Even though the child is not eligible for MA under any of the full-coverage MAGI-related policies, the Department did not present evidence

that it considered whether the child was eligible for MA under a G2U program, with MA subject to a monthly deductible. When closing Medicaid the department policy requires:

Medicaid (MA) Only

An ex parte review (see glossary) is required before Medicaid closures when there is an actual or anticipated change, unless the change would result in closure due to ineligibility for all Medicaid. BEM 201 (October 1 2016) p. 2

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.

Because the Department did not establish that at redetermination it considered eligibility for Petitioner's son under the Group 2 Under 21 with a deductible, the Department must reprocess the redetermination and determine the Petitioner's child's eligibility. As the Petitioner lives in ██████████ County the monthly Protected Income Level is \$689 which will result in a deductible, as the Petitioner's income exceeds the limit. The Department must also determine while reprocessing the redetermination whether the Petitioner pays any premiums for health insurance. RFT 240 (December 1, 2013), p. 1; RFT 200 (December 1, 2013), p.1.

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 determined that Petitioner's child was no longer eligible for full coverage medical assistance.

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 did not consider eligibility for the Group 2 U program.

Accordingly, the Department's decision is

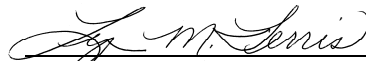
AFFIRMED IN PART with respect to the closure of the Petitioner's child's full coverage MA due to excess income and,

REVERSED IN PART with respect to its failure to determine eligibility for MA under Group 2 U-21 with a spend down (deductible).

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. The Department shall reprocess the redetermination and determine the Petitioner's eligibility under the Group2 spend down MA program.
2. The Department shall provide the Petitioner written notice of its determination.

LF/hw



Lynn M. Ferris

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]

[REDACTED]

Petitioner

[REDACTED]