



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: February 6, 2018
MAHS Docket No.: 17-015176
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Denise McNulty

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; 42 CFR 438.400 to 438.424; 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 December 20, 2017, from Detroit, Michigan. The Petitioner represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED], Hearing Facilitator.

ISSUE

Did the Department properly determine Petitioner's child's 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. Petitioner's son was an ongoing MA recipient. Petitioner completed a redetermination in May 2017 which resulted in changes to her son's MA benefits.
2. On June 15, 2017, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) informing her that her son would not be eligible for MA benefits July 1, 2017-ongoing. Petitioner did not request a hearing regarding the HCCDN. On June 20, 2017, Petitioner received a letter from MiChild indicating her son had been approved for MA under MiChild.
3. Petitioner's son was moved over to MA under the Under 19 (U19) program beginning July 1, 2017, under a new case number.

4. On October 31, 2017, the Department sent Petitioner a HCCDN informing her that, for the month of September 2017, her son was not eligible for MA benefits because the value of her countable assets were higher than allowed for the program.
5. Petitioner was married and had one dependent child.
6. On November 13, 2017, Petitioner submitted a request for hearing specifically disputing the Department's decision which held her son ineligible for MA under MiChild and the decision that her son was not eligible for MA benefits in September 2017.

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, one reason Petitioner requested a hearing was to address the Department's June 15, 2017, HCCDN which notified her that her son was ineligible for MA benefits under the MiChild program. Petitioner's request for hearing regarding that decision is not timely. A client's request for hearing must be in writing and signed by an adult member of the eligible group, adult child, or authorized hearing representative (AHR). Department of Health and Human Services Bridges Administrative Manual (BAM) 600 (April 2017), p. 2. Moreover, BAM 600, p. 7, provides that a request for hearing must be received in the Department local office within 90 days of the date of the written notice of case action. Petitioner's November 2017 request for a hearing was not within 90 days of the June 15, 2017, HCCDN. Therefore, there is no jurisdiction to address the Department's decision finding Petitioner's son ineligible for MA benefits under the MiChild program effective July 1, 2017. As such, that portion of Petitioner's request for hearing is **dismissed**.

In this case, Petitioner's son was receiving MA benefits under the Under 19 (U19) MA program. The U19 program is a Modified Adjusted Gross Income (MAGI) related MA category. BEM 131 (June 2015), p. 1. There are different MAGI U19 categories which are defined by the household income. BEM 131, p. 1. The U-19 income limits for Low Income Families (LIF) is 0-54% of the Federal Poverty Level (FPL) for children aged 0-

19. The U19 income limit for Other Healthy Kids (OHK) is 54-143% of the FPL for children aged 0-19. The U19 income limits for the Healthy Kids Expansion (HKE) are 143-160% of the FPL for children aged 0-6 and 109-160% of the FPL for children aged 6-9. BEM 131, p. 1. The Department testified that Petitioner's son was receiving MA-U19 for Other Healthy Kids (OHK).

The Department concluded that Petitioner's child was income-ineligible for MA coverage under the U19 program for the month of September 2017. In order to determine income eligibility for MAGI-related programs, the household's MAGI income must be considered. In this case, Petitioner was married and had a dependent child. Therefore, the Petitioner's child's group size would be three. See BEM 211(January 2016), pp. 1-2. 212% of the annual 2017 FPL, which is the maximum income limit for full-coverage MA for an individual under 19, for a three-member household is \$ [REDACTED]

Generally, household income for MAGI-related MA eligibility is the sum of the MAGI-based income of every individual included in the individual's household, minus an amount equivalent to five percentage points of the FPL for the applicable family size. 42 CFR 435.603(d)(1). To determine financial eligibility under U19 and MICHild, income must be calculated in accordance with MAGI under federal tax law. BEM 500 (July 2017), p. 3. MAGI is based on Internal Revenue Service rules and relies on federal tax information. BEM 500, p. 3. Income is verified via electronic federal data sources in compliance with MAGI methodology. MREM, § 1.

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. This figure is multiplied by the number of paychecks the client expects in 2017 to estimate income for the year. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>.

The Department testified it used the Petitioner's assets to determine whether her son was eligible for benefits for the month of September 2017. [Exhibit A, p. 28.] At the time of the hearing, the Department was reviewing income verifications provided by Petitioner to determine ongoing benefits for Petitioner's son. There is no asset test for MA-U19. Income eligibility exists when net income does not exceed 160% of the federal poverty level. BEM 131(June 2015), p. 2. Therefore, the Department did not use Petitioner's or Petitioner's spouse's "taxable income." As such, the Department failed to establish that it properly calculated the household income. Thus, the Department failed to establish that it properly followed policy when determining Petitioner's child's MA eligibility for September 2017.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's son's MA benefits for September 2017.

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. Redetermine Petitioner's child's MA eligibility for September 2017;
2. Provide Petitioner's child with MA coverage he is eligible to receive for September 2017; and
3. Notify Petitioner of its MA decision in writing.



DM/jaf

Denise McNulty

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

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