



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]
Date Mailed: June 10, 2019
MOAHR Docket No.: 19-004454
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 June 6, 2019, from Detroit, Michigan. Petitioner was present with his brother, [REDACTED]. The Department of Health and Human Services (Department) was represented by Jeffrey Robinson, Family Independence Manager.

ISSUE

Did the Department properly close Petitioner's child's Medical Assistance (MA) benefit case?

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 child was an ongoing MA recipient.
2. On February 19, 2019, Petitioner completed a redetermination related to his child's MA benefit case (Exhibit A).
3. Petitioner had earned income (Exhibit B).
4. Petitioner's child had unearned income in the form of Retirement, Survivors and Disability Insurance (RSDI) benefits in the yearly amount of \$11,520 (Exhibit C).
5. Petitioner had unearned income in the form of RSDI benefits in the yearly amount of \$17,388 (Exhibit D).

6. On April 18, 2019, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) informing him that his child's MA benefit case was closing effective May 1, 2019, ongoing (Exhibit E).
7. On [REDACTED] 2019, Petitioner submitted a request for hearing.

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, Petitioner's son was an ongoing MA recipient. On February 19, 2019, Petitioner completed a redetermination related to his son's MA benefit case. On April 18, 2019, the Department sent Petitioner a HCCDN informing him that his child's MA benefit case was closing effective May 1, 2019, ongoing. The Department testified that Petitioner's son's household income exceeded the limit under the Under 19 (U19) and MiChild MA programs.

The U19 program is a Modified Adjusted Gross Income (MAGI) related MA category. BEM 131 (June 2015), p. 1. There are different MAGI U-19 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 U-19 income limit for Other Healthy Kids (OHK) is 54-143% of the FPL for children aged 0-19. The U-19 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.

Petitioner's child could also qualify for full-coverage MA benefits under the MiChild program. MiChild is also 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.

The Department concluded that Petitioner's child was income-ineligible for MA coverage under the U19 program and MiChild program. In order to determine income eligibility for MAGI-related programs, the household's MAGI income must be considered. In this

case, Petitioner was not married and claimed his child as a dependent. Therefore, Petitioner's child's group size would be two. See BEM 211(January 2016), p. 1-2. 212% of the annual 2019 FPL, which is the maximum income limit for full-coverage MA for an individual under 19, for a two-member household is \$35,849.20

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, 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/>.

For RSDI income, there are special budgeting rules for MAGI-related MA programs. BEM 503 (January 2019), p. 29. All RSDI income is countable to tax-filers and adults not claimed as dependents. BEM 503, p. 29. A child/tax dependent's RSDI is countable only if that child or tax-dependent is required to file taxes. BEM 503, p. 29. If a child or tax-dependent meets an exception outlined in BEM 211, then all of their RSDI income is countable even if they are not required to file taxes. BEM 503, p. 29.

The Department testified that it included Petitioner's earned income, annuity payments, pension payments, as well as Petitioner's and Petitioner's son's RSDI income when determining Petitioner's son's MA eligibility. At the hearing, Petitioner testified that he claimed his child as a tax dependent. Petitioner stated his son was not required to file a tax return in 2018.

Petitioner's son does not meet one of the exceptions outlined in BEM 211. BEM 211, p. 2. Additionally, Petitioner's son's total 2018 RSDI benefit amount was \$11,520. For single individuals under the age of 65, the income tax filing threshold for 2018 was \$12,000. See: <https://www.irs.gov/pub/irs-pdf/p501.pdf>. Therefore, Petitioner's child would not have been required to file a tax return in 2018. Thus, Petitioner's child's RSDI income should not have been considered when determining his MA eligibility. As such, the Department failed to establish that it properly determined Petitioner's child's MA eligibility.

DECISION AND ORDER

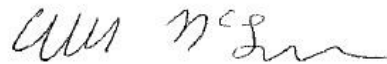
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it determined Petitioner's child's MA eligibility.

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 as of May 1, 2019, ongoing;
2. If Petitioner's child is eligible for MA benefits, provide him with coverage he is entitled to receive as of May 1, 2019, ongoing; and
3. Notify Petitioner of its decision in writing.

EM/cg



Ellen McLemore

Administrative Law Judge
for Robert Gordon, 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 Office of Administrative Hearings and Rules (MOAHR).

A party may request a rehearing or reconsideration of this Order if the request is received by MOAHR 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. MOAHR will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MOAHR. If submitted by fax, the written request must be faxed to (517) 763-0155; Attention: MOAHR Rehearing/Reconsideration Request.

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

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

Via Email:

MDHHS- Oakland-3-Hearings
D. Smith
EQAD
BSC4- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

[REDACTED]
[REDACTED]
[REDACTED]