



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: July 10, 2019
MOAHR Docket No.: 19-005447
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Aaron McClintic

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 26, 2019, from Lansing, Michigan. The Petitioner was represented by himself. The Department of Health and Human Services (Department) was represented by Sabrina Morris, AP Worker. Department Exhibit 1, pp. 1-51 was received and admitted. Rachel Walker appeared and testified for the Department. Petitioner submitted exhibits A1-12 and B1-5 which were received and admitted.

ISSUE

Did the Department properly determine Petitioner's Medical Assistance (MA) benefits correctly?

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 was a recipient of MA benefits.
2. On [REDACTED] 2019, Petitioner applied for Medicare costshare benefit.
3. On May 1, 2019, a Health Care Coverage Determination Notice was sent to Petitioner informing him that he was eligible for MA with a \$1,015 deductible. He was also informed that his daughter [REDACTED] was eligible for full coverage Medicaid. (Ex. 1, pp. 44-47)
4. Petitioner's daughter [REDACTED] is [REDACTED] years old and filed an individual tax return in her most recent tax filing.

5. On May 2, 2019, Petitioner submitted proof of Part D premiums of \$28 per month and his deductible was changed from \$1,015 to \$987 effective June 1, 2019.
6. On May 16, 2019, Petitioner requested hearing disputing the determination of MA benefits.

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.

DEPARTMENT POLICY

MAGI-Related

Group composition for MAGI-related categories follows tax filer and tax dependent rules.

The MAGI related groups are:

- Children (U19). The income limit for children birth to age 1 is 195 percent of the federal poverty level (FPL). The income limit for a child age 1-19 is 160 percent FPL.
- Pregnant Women (PW). The income limit for pregnant women of any age is 195 percent FPL.
- Parents and caretakers (PCR). The income limit for parents and caretakers is 54 percent FPL.
- Healthy Michigan Plan (HMP). The income limit for adults age 19-64 is 133 percent FPL.
- Former foster children (FCTM). There is no income test for individuals' ages 18-26 who were in foster care in Michigan at age 18.
- MOMS. The income limit for pregnant women of any age is 195 percent FPL.
- MICHild. The income limit for children birth to age 19 is 212 percent FPL.

More information regarding income limits is available at www.medicaid.gov.

FAMILY SIZE

The size of the household will be determined by the principles of tax dependency in the majority of cases. Parents, children and siblings are included in the same household. Parents and stepparents are treated the same. Individual family members may be eligible under different categories.

The household for a tax filer, who is not claimed as a tax dependent, consists of:

- Individual.
- Individual's spouse.
- Tax dependents.

The household for a non-tax filer who is not claimed as a tax dependent, consists of the individual and, if living with the individual:

- Individual's spouse.
- The individual's natural, adopted and step children under the age of 19 or under the age of 21 if a full time student.
- If the individual is under the age of 19 (or under 21 if a full time student), the group consists of individual's natural, adopted and step parents and natural, adoptive and step siblings under the age of 19 (or under 21 if a full time student).

The household for an individual who is a tax dependent of someone else, consists of:

- The household of the tax filer claiming the individual as a tax dependent, except that the individual's group must be considered as non-filer/non-dependent if:
- The individual is not the spouse or a biological, adopted, or step child of the taxpayer claiming them; or
- The individual is under the age of 19 (or under 21 if a full time student) and expects to be claimed by one parent as a tax dependent and are living with both parents but the parents do not expect to file a joint tax return; or
- The individual is under the age of 19 (or under 21 if a full time student) and expects to be claimed as a tax dependent by a non-custodial parent,
- The individual's group consists of the parent who has a court order or binding separation, divorce, or custody agreement establishing physical custody controls, or
- If there is no such order or agreement or in the event of a shared custody agreement, the custodial parent is the parent with whom the child spends most nights.

Core Relative

Core relatives include any of the following:

- Parent.
- Aunt or uncle.
- Niece or nephew.
- Any of the above relationships prefixed by grand, great or great-great.
- Stepparent.
- Sister or brother.
- Stepsister or stepbrother.
- First cousin.
- First cousin once removed (for example, a first cousin's child).

A core relative may also include the spouse of any individual above, even after the marriage is ended by death or divorce. Core relatives include relationships established by adoption.

The individual's statement regarding relationship, presence in the home and tax dependency is acceptable.

HOUSEHOLD COMPOSITION EXAMPLES

Kayla is a grandmother who claims her 20 year old daughter, Samantha and 2 year old granddaughter, Joy as tax dependents. Samantha is a full-time student. Kayla is the tax filer.

- Tax rules apply to all.
- Kayla's group is 3. Kayla, Samantha and Joy.
- Samantha's group is 3. Samantha, Kayla and Joy.
- Joy's group is 2, Samantha and Joy.

Bob and Mary are married. Mary is the mother of Jane, age 22. Jane attends college in Ohio. Bob is the tax filer and claims Mary and Jane as tax dependents.

- Tax rules apply to all.
- Group is 3 for all individuals.

SSI-Related Medicaid (MA), Group 2 Pregnant Women, Group 2 Persons Under Age 21, Group 2 Caretaker Relative

Use fiscal groups and, for SSI-related MA, Group 2 Persons Under Age 21 and Group 2 Caretaker Relative, asset groups to determine the financial eligibility of a person who requests Medicaid and meets all the nonfinancial eligibility factors for an Medicaid category.

Individual family members may be eligible under different Medicaid categories.

All categories of Medicaid must be explored for each person who requests Medicaid; see *choice of category* in BEM 105.

Group 2 Fiscal Groups

Determine the fiscal and asset groups separately for each person requesting Medicaid. The fiscal group must be determined separately for each person. In determining a person's eligibility, the only income that may be considered is the person's own income and the income of the following persons who live with the individual:

- The individual's spouse, and
- The individual's parent(s) if the individual is a child. BEM 221

In this case, Petitioner's daughter was found to be eligible for Full Coverage MA. Petitioner was found to be eligible for MA with a \$1,015 deductible which was later reduced to \$987.

Petitioner argued that he and his daughter should be considered a group size of 2 and that they should both be eligible for MA-HMP with no deductible. Petitioner argued that his daughter meets the definition of a dependent based on IRS rules.

Petitioner's daughter is [REDACTED] years and filed her own tax return in her most recent tax filing and was not claimed as a dependent by Petitioner.

The rules on MA Group Composition under BEM 221 require that the Department determine the fiscal and asset groups separately for each person requesting Medicaid. The fiscal group must be determined separately for each person. In determining a person's eligibility, the only income that may be considered is the person's own income and the income of the following persons who live with the individual: The individual's spouse and the individual's parent if the individual is a child. BEM 221 Therefore, the Department was correct to only consider only Petitioner's income in determining Petitioner's eligibility and was correct in only considering only Petitioner's daughter's income when determining her eligibility. BEM 221

Petitioner confused the MAGI-related rules when he asserted that he has a group of size of 2 and that this household of 2 should be eligible for HMP. Even utilizing the MAGI-related rules Petitioner would not be a group size of 2 and is not eligible for HMP. Petitioner's daughter is over the age of 21 and thus cannot be included in Petitioner's group under the MAGI-related rules. In addition, Petitioner's daughter was not claimed as a tax dependent and even if she potentially could have been claimed as a tax dependent, the fact is that she was not. The Department determination not to use the MAGI-related MA group composition rules was proper and correct. BEM 221

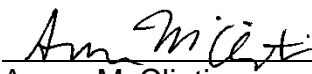
In this case, Petitioner receives \$ [REDACTED] in RSDI income. Petitioner did not dispute the income used by the Department. Based on Department budgeting following deductions and exclusions, Petitioner has total countable income of \$ [REDACTED]. After subtracting the \$408 protected income limit, the remaining deductible is \$987. This deductible amount was consistent with Department policy and was proper and correct. BEM 545

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 Petitioner's MA eligibility and deductible amount.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

AM/nr



Aaron McClintic
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

DHHS

Lori Duda
30755 Montpelier Drive
Madison Heights, MI
48071

Oakland 2 County DHHS- via electronic mail

BSC4- via electronic mail

D. Smith- via electronic mail

EQAD- via electronic mail

Petitioner

[REDACTED] MI