



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

██████████  
████████████████████  
██████████ MI ██████████

Date Mailed: February 18, 2020  
MOAHR Docket No.: 20-000221  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler**

**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 February 12, 2020 from ██████████ Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearings Facilitator.

**ISSUE**

Did the Department properly determine Petitioner's son's Medical Assistance (MA) Program eligibility with a 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's son ██████████ (Son) was previously enrolled in the full coverage MIChild MA category in 2018.
2. On December 18, 2019, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner informing her that her son ██████████ (Son) was eligible for MA subject to a \$4,220.00 deductible effective January 1, 2020.
3. As of the date of the determination of eligibility, Petitioner was employed with ██████████ (Employer) working an average of 72 hours biweekly.
4. Petitioner's household includes herself, her son, and her daughter.

5. Petitioner receives child support income on behalf of Son, sporadically; prior to the Department's decision Petitioner had received \$464.00 in September and October 2019, but nothing in November or December 2019.
6. On January 2, 2020, the Department received Petitioner's request for hearing disputing the Department's placement of her son in an MA deductible program with a deductible of \$4,220.00.

### **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 disputes the Department's determination of Son's MA eligibility. Children over age one and under age 19 are potentially eligible for three programs: (1) the Under Age 19 (U19) program; (2) the MiChild program; and (3) the Group 2 Under 21 (G2U) program. BEM 105 (April 2017), pp. 1, 3-4; BEM 130 (October 2019), p. 1; BEM 131 (June 2015), p. 1; BEM 132 (April 2018), 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) which exceeds the applicable Group 2 MA protected income level (PIL) 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.

The Department concluded that Son was income-ineligible for full-coverage MA benefits. There are three U19 categories for children over 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 109% and 160% of the FPL. BEM 131, p. 1. A child between ages 1 and 18 whose household income is between 160% and 212% of the FPL is income eligible for MICHild subject to a monthly \$10.00 premium per family. BEM 130, pp. 1-2. A 5% disregard may be applied in MAGI cases when necessary to make a person eligible for MA benefits. MREM, § 7.2.

In order to determine income eligibility for MAGI-related U19 and MICHild programs, the household's MAGI income must be considered. A determination of group size under the MAGI methodology requires consideration of the client's tax status and dependents. The household of a tax dependent consists of the household of the tax filer claiming the individual as a tax dependent. BEM 211 (February 2019), p. 2. Therefore, Son's group size for MAGI purposes is three (Petitioner, Son, and daughter). 54% of FPL for LIF eligibility is \$11,518.20 or \$12,584.70 when the 5% disregard is applied. <https://aspe.hhs.gov/2019-poverty-guidelines>. 160% of the annual 2019 FPL for HKE eligibility for a three-person household is \$34,218.00 or \$35,194.50 when the 5% disregard is applied. *Id.* 212% of the annual FPL for MICHild eligibility for a three-member household is \$45,219.60 or \$46,286.10 when the 5% disregard is applied. *Id.*

In determining MA eligibility for Son, the Department relied upon wages as reported in the Equifax Work Number Report which Petitioner did not dispute. To determine financial eligibility for these programs, income must be calculated in accordance with MAGI under federal tax law. MAGI is based on Internal Revenue Service rules and relies on federal tax information. BEM 500 (July 2017), p. 3. Income is verified via electronic federal data sources in compliance with MAGI methodology. MREM, § 1. In determining an individual's eligibility for MAGI-related MA, the Department bases financial eligibility on current monthly household income. Centers for Medicare & Medicaid Services, *State Plan Amendment 17-0100 Approval Notice*, (March 19, 2018), p. 7. MAGI is calculated by reviewing the client's adjusted gross income (AGI) and adding it to any tax-exempt foreign income, tax-exempt Social Security benefits, and tax-exempt interest. HealthCare.gov, *Modified Adjusted Gross Income (MAGI)* < <https://www.healthcare.gov/glossary/modified-adjusted-gross-income-magi/> > (accessed January 24, 2020). AGI is found on IRS Tax Form 1040 at line 7, Form 1040 EZ at line 4, and Form 1040A at line 21. HealthCare.gov, *Modified Adjusted Gross Income (MAGI)* < <https://www.healthcare.gov/glossary/adjusted-gross-income-agi/> > (accessed January 24, 2020). 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. HealthCare.gov, *Modified Adjusted Gross Income (MAGI)* < <https://www.healthcare.gov/income-and-household-information/how-to-report/> > (accessed January 24, 2020). In situations where income is difficult to predict because of unemployment, self-employment, commissions, or a work schedule that changes

regularly, income should be estimated based upon past experiences, recent trends, possible changes in the workplace, and similar information. *Id.*

Petitioner had the following gross wages from employment in the 30 days prior to the Department's decision on December 18, 2019:

November 22, 2019	\$2,851.66
December 6, 2019	\$3,428.35

Therefore, her gross wages were \$6,280.01. At the hearing, Petitioner testified that she contributes to a retirement account through her employment; but the Department never sought verification of her adjusted gross income or the contributions to her retirement account. Instead, the Department relied solely on the gross wages as listed in the Work Number. Since the Department is required to consider deductions to a client's wages for health coverage, child care, and retirement savings as discussed above, the Department has not met its burden of proof in establishing that Son was not eligible for a full coverage MAGI MA category or MIChild. It is notable that to be eligible for any of the MAGI categories, Petitioner would have to have significant deductions to her wages in order for Son to be eligible for a full coverage MA program. Despite that, the Department has the burden of proof and the Department failed to seek verifications. BEM 500 (July 2017), pp. 3-4, 13-15; MREM §7.

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 Son's MA eligibility.

### **DECISION AND ORDER**

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 Son's MA eligibility effective January 1, 2020;
2. If otherwise eligible, issue supplements to Petitioner (on behalf of Son) or on their behalf for benefits not previously received; and,

3. Notify Petitioner in writing of its decision.



AMTM/jaf

---

**Amanda M. T. Marler**  
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**

Susan Noel  
MDHHS-██████████-Hearings  
BSC4  
D Smith  
EQAD

**Petitioner**

██████████  
████████████████████  
██████████ MI ██████████