



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

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DIRECTOR

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Date Mailed: June 27, 2024
MOAHR Docket No.: 24-003897
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Linda Jordan

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 hearing was held on May 30, 2024, via teleconference. Petitioner appeared and represented himself. Jericha Hall, Family Independence Manager, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department). Petitioner's proposed exhibit was admitted at the hearing as Petitioner's Exhibit 1, pp. 1-4. MDHHS' Hearing Packet was admitted at the hearing as MDHHS Exhibit A, pp. 1-47.

ISSUE

Did MDHHS properly determine Petitioner's eligibility for Medicaid (MA) benefits?

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, ██████████ (Spouse), and their three children (Minor Children) were ongoing recipients of MA coverage.
2. On ██████████ 2024, Petitioner submitted a Redetermination for MA (Exhibit A, p. 41). Petitioner reported that he had employment at ██████████ (Employer), that he earned \$██████████ every two weeks, plus an irregular commission income, and that he was "not sure" regarding his annual income (Exhibit A, pp. 43-47).
3. On March 15, 2024, MDHHS sent Petitioner a Health Care Coverage Determination Notice indicating that he and Spouse were eligible for MA with a monthly deductible of \$6,552.00, effective April 1, 2024 ongoing, and Minor

Children were approved for MA with a monthly deductible of \$8,317.00, effective April 1, 2024 ongoing (Exhibit A, pp. 6-7).

4. On March 25, 2024, Petitioner requested a hearing regarding MDHHS' MA determinations (Exhibit A, pp. 3-5).

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).

Medicaid (MA) 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. MDHHS administers MA pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MA is also known as Medical Assistance. BEM 105 (January 2024), p. 1.

In this case, MDHHS determined that Petitioner and Spouse were eligible for MA under the Group 2 Caretaker Relatives (G2C) category with a monthly deductible of \$6,552.00 (Exhibit A, p. 6). Additionally, MDHHS determined that Minor Children were eligible for Group 2 Persons Under 21 (G2U) category with a monthly deductible of \$8,317.00 (Exhibit A, p. 6). Petitioner disputed MDHHS' determinations.

MA includes several sub-programs or categories. BEM 105, p. 1. To receive MA under a Supplemental Security Income (SSI)-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. *Id.* MA eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MICHild, Flint Water Group and Health Michigan Plan (HMP) is based on Modified Adjusted Gross Income (MAGI) methodology. *Id.* Persons may qualify under more than one MA category. Federal law gives them the right to the most beneficial category. The most beneficial category is the one that results in eligibility or the least amount of excess income.

The terms Group 1 and Group 2 relate to financial eligibility factors. *Id.* For Group 1, net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. *Id.* The income limit, which varies by category, is for nonmedical needs such as food and shelter. *Id.* Medical expenses are not used when determining eligibility for MAGI-related and SSI-related Group 1 categories. *Id.* For Group 2, eligibility is possible even when net income exceeds the income limit. *Id.* This is because incurred medical expenses are used when determining eligibility for

Group 2 categories. *Id.* Group 2 categories are considered a limited benefit because a deductible is possible. *Id.*

To evaluate Petitioner's eligibility for MA, MDHHS must determine Petitioner's MA fiscal group size, net income and assets. MDHHS determines fiscal and asset groups separately for each person requesting MA. BEM 211 (July 2019), p. 5.

MDHHS approved Petitioner and Spouse for G2C MA with a monthly deductible. G2C MA is a Group 2 MA category available to parents and other caretaker relatives who meet all financial and non-financial criteria for the program in the month being tested. BEM 135 (October 2015), p. 1. A caretaker relative is defined as a person who (i) lives with a dependent child; and (ii) is the parent of a dependent child or a core relative who acts as the parent for the dependent child. *Id.* Individuals are eligible for G2C MA coverage when net income (countable income minus allowable income deductions) does not exceed the applicable Group 2 needs in BEM 544 and the MA protected income level (PIL), which is based on shelter area and fiscal group size. The PIL is a set allowance for non-medical need items such as shelter, food and incidental expenses. BEM 135, p 1, 3; BEM 544 (July 2016), p 1-3; BEM 545 (January 2019); RFT 200 (April 2017); RFT 240 (December 2013), p 1.

When calculating earned income, wages include the pay an employee receives from another individual organization or S-Corp/LLC. BEM 501 (January 2024), p. 6. Wages include salaries, tips, commissions, bonuses, severance pay, and flexible benefit funds not used to purchase insurance. *Id.* MDHHS budgets an employee's regular wages paid during a vacation or illness as earned income. *Id.* MDHHS enters a wage advance as earnings when the employer actually pays it and does not count the money withheld to offset the advance as earnings. *Id.* Wages held as a general practice by the employer are not income until actually paid and should not be entered in Bridges until anticipated or received. *Id.*, p. 7.

Here, MDHHS stated that it budgeted \$5,700.00 in monthly income for Petitioner from Employer. Petitioner disputed this amount and testified that he receives income based on a draw and commission payments and that his income varies widely. MDHHS asserted that the \$5,700.00 was based on receiving \$[REDACTED] biweekly and multiplying that amount by two. MDHHS acknowledged that this amount was likely inaccurate and re-budgeted Petitioner's income, determining that he received \$[REDACTED] in monthly income beginning March 1, 2024 (Exhibit A, p. 26). MDHHS stated that the lower amount was based on a sixty-day period. Petitioner stated that this amount was inflated and that he had not received an income since February 2024, due to a drop in vehicle sales. The paystubs introduced at the hearing show the gross pay that Petitioner received from Employer. For example, a paystub dated January 19, 2024 shows that Petitioner earned \$[REDACTED] in gross pay for a two-week period (Exhibit A, p. 37). This amount includes a commission payment, minus the outstanding draw, which is an advance on the commission payment (Exhibit A, p. 37).

MDHHS introduced MA budgets regarding G2C MA eligibility for Petitioner and Spouse (Exhibit A, pp. 28-30). The budgets show that MDHHS determined that Petitioner and Spouse had a fiscal group-size of two and the net income for the household was \$██████ (Exhibit A, p. 30). Regarding group size, MDHHS uses fiscal group policies for Group 2 MA as described in BEM 211. BEM 135 (October 2015). For G2C, an adult's fiscal group is the adult and the adult's spouse. BEM 211 (October 2023), p. 9. Thus, MDHHS properly determined that Petitioner and Spouse had a fiscal group of two. Regarding income, it is unclear how MDHHS calculated the net income of \$5,097.00, given the income budgets described above.

Additionally, MDHHS introduced budgets regarding G2U eligibility for Minor Children (Exhibit A, pp. 31-36). Children over age 1 and under age 19 who are not eligible for MA for foster care children are potentially eligible for MA under three programs: (1) the Under Age 19 (U19) program; (2) the MiChild program; and (3) the Group 2 Under 21 (G2U) program. BEM 105, p. 1, 3-4; BEM 130 (January 2024), p. 1; BEM 131 (January 2022), 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 potentially 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) exceeds the applicable Group 2 MA protected income level (PIL), which is based on the county in which the child resides and child's fiscal group size. BEM 132, p. 2; BEM 544 (January 2020), 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. 3.

MDHHS budgeted \$6,404.00 for Minor Children's total net income. It is unclear from the record how this amount was calculated.

When determining income G2C and G2U, MDHHS determines income eligibility in calendar month order, beginning with the oldest month. In addition, MDHHS does a future month budget when a change in circumstances is reported in the processing month or when a change is anticipated in future months. BEM 530 (April 2020), p. 1. MDHHS is required to use non-averaged income for a past month. *Id.*, p. 2. Given the inconsistencies regarding Petitioner's earnings, it is unclear how MDHHS calculated Petitioner's earned income for past, current and future months, and whether MDHHS properly considered Petitioner's reported income decrease.

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 MDHHS failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Petitioner's household eligibility for MA.

DECISION AND ORDER

Accordingly, MDHHS' decision is **REVERSED**.

MDHHS 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 eligibility for MA for all household members, from April 1, 2024 ongoing, requesting additional income information from Petitioner, as necessary;
2. Provide all household members with the most beneficial category of MA coverage that they are eligible to receive from April 1, 2024 ongoing; and
3. Notify Petitioner of its decision(s) in writing.



Linda Jordan
Administrative Law Judge

LJ/pt

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-Electronic Mail:

DHHS
Kimberly Reed
Montcalm County DHHS
609 North State Street
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MDHHS-Montcalm-Hearings@michigan.gov

Interested Parties

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Via-First Class Mail:

Petitioner
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