

**STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES**

IN THE MATTER OF:

██████████
██████████ MI ██████████

Reg. No.: 15-001300
Issue No.: 2001
Case No.: ██████████
Hearing Date: March 12, 2015
County: WAYNE-DISTRICT 41
(FORT WAYNE)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

HEARING DECISION

Following Claimant'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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on March 12, 2015, from Detroit, Michigan. Participants on behalf of Claimant included Claimant, ██████████ Participants on behalf of the Department of Human Services (Department or DHS) included Corey Reed, Eligibility Specialist/Hearing Facilitator.

ISSUE

Did the Department properly provide Claimant, her husband, and their two minor children with Medical Assistance (MA) coverage they are eligible to receive from November 1, 2014, ongoing?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On ██████████ 2014, Claimant applied for MA benefits for herself, her husband, and their two minor children.
2. On December 9, 2014, the Department sent Claimant a Health Care Coverage Determination Notice (determination notice) notifying Claimant that her two minor children were approved for MA benefits effective November 1, 2014, ongoing. See Exhibit 2, pp. 9-10.

3. The two minor children's MA Eligibility reported that they received full MA coverage under the Modified Adjusted Gross Income (MAGI) related group called the Children under 19 (U19) program. See Exhibit 2, pp. 5-8.
4. On December 10, 2014, the Department sent Claimant a determination notice notifying Claimant that she and her husband were eligible for MA benefits for November 1, 2014, to December 31, 2014. See Exhibit 1, p. 11. The determination notice also indicated that Claimant and her husband were eligible for MA (Group 2 Caretaker – G2C) benefits effective January 1, 2015, with a monthly \$638 deductible. See Exhibit 1, p. 11. However, the determination notice also indicated that Claimant's husband was not eligible for any other type of MA benefits for November 1, 2014, to December 31, 2014. See Exhibit 1, p. 12.
5. Claimant and her husband's MA Eligibility reported that they received full MA coverage for November 1, 2014, to December 31, 2014 and they were not eligible and/or no coverage for January 1, 2015, ongoing. See Exhibit 2, pp. 1-4.
6. Claimant is forty-six-years-old, her husband is forty-seven-years-old, and her minor children are fifteen and four-years-old.
7. Claimant resides with her husband and two minor children (household size of four).
8. In the years 2013 and 2014, Claimant testified that she and her husband filed joint tax returns and claimed two tax dependents (their two minor children).
9. For 2013 and 2014, Claimant alleged she only received approximately \$29,000 in annual income (only source for the family).
10. On [REDACTED] Claimant filed a hearing request, protesting the Department's action. See Exhibit 1, p. 2.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Human Services Bridges Administrative Manual (BAM), Department of Human Services Bridges Eligibility Manual (BEM), Department of Human Services Reference Tables Manual (RFT), and Department of 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 Family Independence Agency) administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

Children's MA benefits

At the hearing, it appeared that Claimant disputed and/or was unclear if her two minor children received MA coverage. In response, the Department presented a determination notice and a MA Eligibility showing that the children are receiving full MA coverage without a deductible effective November 1, 2014, ongoing. On December 9, 2014, the Department sent Claimant a determination notice notifying Claimant that her two minor children were approved for MA benefits effective November 1, 2014, ongoing. See Exhibit 2, pp. 9-10. The two minor children's MA Eligibility reported that they received full MA coverage under the MAGI related group called the U19 program. See Exhibit 2, pp. 5-8.

The goal of the Medicaid program is to ensure that essential health care services are made available to those who otherwise could not afford them. BEM 105 (October 2014), p. 1. Medicaid is also known as Medical Assistance (MA). BEM 105, p. 1.

The Medicaid program is comprised of several sub-programs or categories. BEM 105, p. 1. To receive MA under an Supplemental Security Income (SSI) - related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. BEM 105, p. 1. Medicaid eligibility for children under 19 (U19), parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, Plan First!, and Adult Medical Program is based on MAGI.

In general, the terms Group 1 and Group 2 relate to financial eligibility factors. BEM 105, p. 1. For Group 1, net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. BEM 105, p. 1. The income limit, which varies by category, is for nonmedical needs such as food and shelter. BEM 105, p. 1. Medical expenses are not used when determining eligibility for MAGI-related and SSI-related Group 1 categories. BEM 105, p. 1.

For Group 2, eligibility is possible even when net income exceeds the income limit. BEM 105, p. 1. This is because incurred medical expenses are used when determining eligibility for Group 2 categories. BEM 105, p. 1.

Persons may qualify under more than one MA category. BEM 105, p. 2. Federal law gives them the right to the most beneficial category. BEM 105, p. 2. The most beneficial category is the one that results in eligibility or the least amount of excess income. BEM 105, p. 2. The most beneficial category may change when a client's circumstances change. BEM 105, p. 2. The Department must consider all the MA category options in order for the client's right of choice to be meaningful. BEM 105, p. 2.

U19 is considered a MAGI-related category. Modified Adjusted Gross Income (MAGI) Related Eligibility Manual, *Michigan Department of Community Health (DCH)*, May 2014, p. 4.

Available at http://www.michigan.gov/documents/mdch/MAGI_Manual_457706_7.pdf.

Regarding U19, the income limit for children birth to age 1 is 195% Federal Poverty Level (FPL). MAGI Related Eligibility Manual, p. 4. The income limit for a child age 1-19 is 160% FPL. MAGI Related Eligibility Manual, p. 4.

Based on the foregoing information, the Department presented evidence that it provided the children with the most beneficial MA coverage they were eligible to receive from November 1, 2014, ongoing, in accordance with Department policy. See BEM 105, pp. 1-7; MAGI Related Eligibility Manual, p. 4; and Exhibit 2, pp. 7-11. The U19 provided full MA coverage for the children and there was no deductible present for this coverage. Claimant could not rebut the Department's evidence that it provided the children with the most beneficial MA category.

Claimant and her husband's MA benefits

In this case, Claimant argued that her and her husband's MA coverage with a deductible provided by the Department was inadequate. Claimant's hearing request argued that her family size of four and her income are below the income limits. See Exhibit 1, p. 2. It appeared that Claimant referenced the income limits located in the determination notice dated December 10, 2014. See Exhibit 1, p. 12. As stated above, there are several MA categories, which can be better than her G2C with deductible coverage.

For example, the Healthy Michigan Plan (HMP) is considered a MAGI-related category. MAGI Related Eligibility Manual, p. 4.

The HMP provides health care coverage for individuals who:

- Are 19-64 years of age
- Have income at or below 133% of the federal poverty level under the MAGI methodology
- Do not qualify for or are not enrolled in Medicare
- Do not qualify for or are not enrolled in other Medicaid programs
- Are not pregnant at the time of application
- Are residents of the State of Michigan

Medicaid Provider Manual, *Michigan Department of Community Health*, January 2015, p. 453. Available at:
<http://www.mdch.state.mi.us/dch-medicaid/manuals/medicaidprovidermanual.pdf>.

All criteria for MAGI eligibility must be met to be eligible for the Healthy Michigan Plan. Medicaid Provider Manual, p. 453.

During the hearing, Claimant's testimony/evidence appeared to indicate that she is possibly eligible for HMP. Claimant's testimony/evidence indicated the following: (i) her and her husband are between 19-64 years of age; (2) her and her husband are not enrolled in Medicare; (3) her and her husband were not enrolled in other Medicaid programs at the time of application; (4) she was not pregnant at the time of application; and (5) her and her husband are residents of Michigan. See Medicaid Provider Manual, p. 453. Moreover, Claimant must have income at or below 133% of the FPL level under the MAGI methodology to be eligible for HMP. See Medicaid Provider Manual, p. 453.

Before determining whether Claimant's income is at or below 133% of the federal poverty level, the Department must determine Claimant's household composition. The size of the household will be determined by the principles of tax dependency in the majority of cases. MAGI Related Eligibility Manual, p. 14. In this case, Claimant's household composition is four because she and her husband filed a joint tax return and claimed two tax dependents (their two minor children). See MAGI Related Eligibility Manual, p. 14.

The analysis now turns to whether Claimant's income is at or below 133% of the FPL. Because Claimant applied in 2014, this Administrative Law Judge (ALJ) will review the 2014 Poverty Guidelines. The 2014 Poverty Guidelines for the 48 Contiguous States and the District of Columbia indicated that the poverty guidelines for persons in family/household size of four is \$23,850. 2014 Poverty Guidelines, *U.S. Department of Health & Human Services*, January 24, 2014, p. 1. Available at: <http://www.aspe.hhs.gov/POVERTY/14poverty.cfm>.

However, the poverty guidelines for a household size of four must be multiplied by 1.33 (133%) to obtain the 133% FPL calculation. The result is that Claimant's income must be at or below \$31,720.50 (\$23,850 multiplied by 1.33) of the FPL for a household size of four.

Then, it must be determined whether Claimant's income is countable. MAGI is a methodology for how income is counted and how household composition and family size are determined. MAGI Related Eligibility Manual, p. 16. It is based on federal tax rules for determining adjusted gross income. MAGI Related Eligibility Manual, p. 16. Every individual is evaluated for eligibility based on MAGI rules. MAGI Related Eligibility Manual, p. 16. The MAGI rules are aligned with the income rules that will be applied for determination of eligibility for premium tax credits and cost-sharing reductions through exchanges. MAGI Related Eligibility Manual, p. 16. Common sources of income which are countable in a MAGI related determination includes wages/salary. See MAGI Related Eligibility Manual, p. 16.

During the hearing, Claimant testified that the Department improperly calculated her annual salary. For the 2013 and 2014 tax year filings, Claimant alleged she only received approximately \$29,000 in annual income (only source for the family). Claimant testified that she receives wages for only ten out of the twelve months in a year,

whereas, she believed the Department based her income for the entire year. Claimant believed she indicated in her application that her income does not reflect an entire year. The Department was unable to present Claimant's application to review the income information she inputted. Moreover, Claimant testified that she brought in letters from her employers showing that she only works ten months of the year. The Department did present Claimant's paystubs that she submitted to the Department on November 17, 2014. See Exhibit 1, pp. 5-9. It appears that Claimant's monthly MA income were based on these submitted pay stubs. See Exhibit 1, p. 4 (Employment Budget – Summary).

In response, the Department believed that it did properly calculate Claimant's income. The Department provided Claimant's Employment Budget – Summary, which showed the Department budgeted a monthly MA budget as follows: \$2,682 for November 2014 and \$2,706 for December 1, 2014, ongoing. See Exhibit 1, p. 4.

MAGI-related MA policy is silent on how to calculate the income. 42 CFR 435.603(h)(2) states that for current beneficiaries eligible under MAGI-related MA policy, the state can elect to use current monthly household income and family size or based on projected annual household income and family size for the remainder of the current calendar year. Also, 42 CFR 435.603(h)(3) states:

In determining current monthly or projected annual household income and family size under paragraphs (h)(1) or (h)(2) of this section, the agency may adopt a reasonable method to include a prorated portion of reasonably predictable future income, to account for a reasonably predictable increase or decrease in future income, or both . . .

Based on the above information, Claimant's testimony indicated that her \$29,000 annual household income appears to be below the 133% FPL. However, using the Department's testimony, Claimant might possibly be above this threshold.

Based on the evidence presented, the Department failed to satisfy its burden of showing that it properly provided Claimant and her husband with the most beneficial MA coverage they were eligible to receive from November 1, 2014, ongoing, in accordance with Department policy. See BAM 600, pp. 35-37.

First, HMP coverage is more of a beneficial MA category than G2C with a deductible coverage. See BEM 105, pp. 1-4. The Department failed its burden to show why Claimant did not meet the HMP requirements. Moreover, Claimant testified that her annual income of \$29,000 fell below the 133% FPL and the Department failed to rebut Claimant's argument that her income did not fall below the threshold limit.

Second, Claimant's determination notice dated December 10, 2014, was unclear as to whether the husband was approved or denied for coverage from November 1, 2014, to December 31, 2014. See Exhibit 1, pp. 11-12. One section of the determination notice indicated that the husband was eligible for benefits and another section indicated he

was not eligible for any other type of MA benefits. Furthermore, Claimant and her husband's MA Eligibility Summary indicated no eligible coverage for January 1, 2015, ongoing. See Exhibit 1, pp. 1-4. It is possible that there was no coverage active for this period because they did not meet their deductible; nevertheless, this evidence provided inconsistent information as to their MA eligibility.

For the above stated reasons, the Department will redetermine Claimant and her husband's eligibility for the most beneficial MA coverage they are eligible to receive (i.e., HMP eligibility) effective November 1, 2014, ongoing. This hearing decision does not conclude that Claimant and her husband are eligible for HMP or any other more beneficial MA category because the Department has to redetermine their eligibility.

It should be noted that this ALJ will not address if whether the Department properly calculated Claimant's MA – G2C deductible in the amount of \$638 because the Department failed its burden to show why Claimant and her husband did not qualify for a more beneficial MA category.

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 (i) acted in accordance with Department policy when it provided Claimant's two minor children with MA – U19 coverage for November 1, 2014, ongoing; and (ii) failed to satisfy its burden of showing that it properly provided Claimant and her husband with the most beneficial MA coverage they were eligible to receive from November 1, 2014, ongoing, in accordance with Department policy.

Accordingly, the Department's MA decision is AFFIRMED IN PART with respect to children's MA coverage and REVERSED IN PART with respect to Claimant's and her husband's MA coverage.

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 Claimant and her husband's MA eligibility (including HMP eligibility) for November 1, 2014, ongoing;
2. Provide Claimant and her husband with the most beneficial MA coverage they are eligible to receive for November 1, 2014, ongoing and

3. Notify Claimant of its decision.


Eric Feldman
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **3/16/2015**

Date Mailed: **3/16/2015**

EJF/tm

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS **MAY** order a rehearing or reconsideration on its own motion.

MAHS **MAY** grant a party's Request for Rehearing or Reconsideration when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The party requesting a rehearing or reconsideration must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date this Hearing Decision is mailed.


A written request may be faxed or mailed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088 and be labeled as follows:

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

cc:


Jeanette Cowens
Wayne-District 41 (Fort Wayne)
M-E: M. Best; EQADHShearings
AP Specialist Wayne County
AH