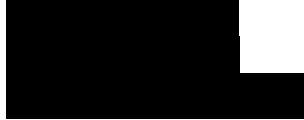




RICK SNYDER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON  
DIRECTOR



Date Mailed: December 28, 2017  
MAHS Docket No.: 17-014706  
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 December 19, 2017, from Detroit, Michigan. Petitioner was present with his wife, [REDACTED]. The Department of Health and Human Services (Department) was represented by Kim Reed, Lead Worker.

**ISSUE**

Did the Department properly determine Petitioner's child's Medical Assistance (MA) eligibility?

**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 was an ongoing MA recipient.
2. On September 28, 2017, Petitioner submitted a completed redetermination for his son's MA benefits.
3. Petitioner was married and had one dependent child.
4. Petitioner and his wife had income from employment.
5. On October 30, 2017, the Department sent Petitioner a Health Care Coverage Determination Notice informing him that his child was not eligible for MA benefits effective December 1, 2017, ongoing.

6. On November 13, 2017, Petitioner submitted a request for hearing disputing the Department's actions regarding his son's MA eligibility.

### **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 son was previously receiving MA benefits under the Under 19 (U19) MA program. The U19 program is a Modified Adjusted Gross Income (MAGI) related MA category. BEM 131 (June 2015), p. 1. There are different MAGI U19 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 U19 income limit for Other Healthy Kids (OHK) is 54-143% of the FPL for children aged 0-19. The U19 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 married and had a dependent child. Therefore, the Petitioner's child's group size would be three. See BEM 211(January 2016), pp. 1-2. 212% of the annual 2017 FPL, which is the maximum income limit for full-coverage MA for an individual under 19, for a three-member household is \$43,390.40

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, tax-exempt 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/>.

The Department testified it used the pay statements that were submitted by Petitioner to calculate Petitioner's wife's income from employment (Exhibits C and D). The Department stated it used the gross amount indicated on each pay statements. The Department testified it used a Work Number report that was retrieved for Petitioner's income from employment to calculate his earnings. The Work Number report would have contained Petitioner's gross earnings. Petitioner submitted a pay statement from his income from employment (Exhibit 1). On both Petitioner and Petitioner's wife's pay statements, there are deductions for health insurance and/or retirement savings. The Department did not deduct those amounts to calculate Petitioner and Petitioner's wife's income from employment. Therefore, the Department did not use Petitioner's or Petitioner's wife's "taxable income." As such, the Department failed to establish that it properly calculated the household income. Thus, the Department failed to establish that it properly followed policy when determining Petitioner's child's MA eligibility.

### **DECISION AND ORDER**

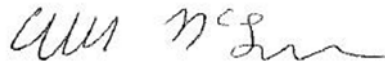
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's MA benefit case.

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 December 1, 2017, ongoing;
2. Provide Petitioner's child with MA coverage he is eligible to receive for December 1, 2017, ongoing; and
3. Notify Petitioner of its MA decision in writing.



EM/

---

**Ellen McLemore**

Administrative Law Judge

for Nick Lyon, 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 Administrative Hearing System (MAHS).

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

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

**DHHS**

MDHHS-Montcalm-Hearings

**Petitioner**



BSC4  
M Best  
EQAD  
E McLemore  
MAHS