GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: February 11, 2019
MAHS Docket No.: 18-013269
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 7, 2019, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Natalie McLauren, Hearings Facilitator.

ISSUE

Did the Department properly deny Petitioner's Medical Assistance (MA) Program application?

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 2018, Petitioner submitted an application for MA coverage for herself and her son indicating that both received health insurance coverage from Blue Cross Blue Shield through Petitioner's employer.

2. On October 11, 2018, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner informing her that her son was eligible for full coverage MA benefits effective October 1, 2018, under the MIChild program.

3. On the same day, the Department issued a Health Insurance Verification form for Petitioner's son with the form due on October 22, 2018.

4. On the same day, the Department also issued a Verification Checklist (VCL) to Petitioner requesting proof of her checking and savings accounts as well as her comprehensive insurance with all proofs due by October 22, 2018.

5. On October 12, 2018, the Department received the first page of the Health Insurance Verification form, a bank statement from , paystubs from for Petitioner for pay dates September 14, 2018, and September 28, 2018, and finally, the health insurance card for Petitioner and her son.

6. On November 19, 2018, the Department issued a HCCDN to Petitioner informing her that she was eligible for MA coverage in Group 2 Caretaker (G2C) program with a monthly deductible of $ per month effective October 1, 2018, and that her son was no longer eligible for MA coverage effective December 1, 2018, for failure to return requested items.

7. On December 6, 2018, the Department received Petitioner's request for hearing disputing the closure of her son's MA benefit and the MA deductible for herself.

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 closure of her son's MA benefit for failure to return requested items and her MA deductible.

Verifications for Petitioner's Son

On October 11, 2018, the Department requested proof of comprehensive health coverage and the checking and savings accounts of Petitioner in addition to the completed Health Insurance Verification Form. The Department received the checking and savings information in addition to a copy of the front and back of Petitioner's health insurance card. The Department also received the first page of the Health Insurance Verification form, but not the second page where there was one question listed in addition to the signature line.

Verification is usually required at application. BAM 130 (April 2017), p. 1. Clients are provided 10 calendar days to provide requested verifications. BAM 130, p. 8. If the client cannot provide the verification despite a reasonable effort, the time limit should be extended up to two times before action is taken by the Department. *Id.* However, extensions must be requested by the client and are not given automatically. *Id.* Case action notices are sent when the client indicates a refusal to provide a verification or the time period given has elapsed. *Id.*

Petitioner submitted all requested documents except page two of the Health Insurance Verification form on October 12, 2018. On October 13, 2018, Petitioner called her caseworker to confirm receipt of all necessary and requested documents. Her caseworker told her that everything had been received, and the only reason that the case was not being processed was because an Asset Detection was being completed preventing further processing. As a result, the caseworker would process all of the verifications on or about November 19, 2018. Petitioner submitted everything that she thought was necessary to the Department ten days before the due date and confirmed with her caseworker nine days before the due date that everything was in order. If it were not for the statements of the caseworker indicating everything had been received, Petitioner could have provided the missing form to the Department well before the due date. Instead, because the caseworker told her that everything was in order and because the case was not actually processed until more than a month later, Petitioner was unable to provide the missing page by the due date or request an extension. Since she was given inaccurate information, she could not comply with the Department's request. Therefore, closure of Petitioner's son's MA case was improper.

Petitioner's MA Program Eligibility and Deductible

Turning to Petitioner's MA coverage, the Department placed Petitioner in the G2C program with a deductible of $██████ per month.

Medicaid is also known as Medical Assistance (MA). BEM 105 (April 2017), p. 1. The Medicaid program comprises several sub-programs or categories. *Id.* To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare, or formerly blind or disabled. *Id.* Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MIChild, and Healthy Michigan Plan (HMP) is based on Modified Adjusted Gross Income (MAGI) methodology. *Id.*

The parties agree that Petitioner is responsible for the care of her minor child. Petitioner's circumstances potentially qualify her for Medicaid under numerous MA categories.

Persons may qualify under more than one MA category. *Id.*, p. 2. Federal law gives them the right to the most beneficial category. *Id.* The most beneficial category is the one that results in eligibility and the least amount of excess income or the lowest cost share. *Id.*

As a caretaker, Petitioner is potentially eligible for MA through Low-Income-Family (LIF). Adults with a dependent child and income under 54% of the Federal Poverty Level will be considered LIF eligible. BEM 110 (April 2018), p. 1. The 2018 FPL for a two-person household is $16,460.00. *See* https://aspe.hhs.gov/2018-poverty-guidelines. The corresponding LIF income limit is $8,888.40. An individual's group size for MAGI-related purposes requires consideration of the client's tax filing status. The household for a tax filer, who is not claimed as a tax dependent consists of: (I) the individual; (ii) the individual's spouse; and (iii) the individual's tax dependents. BEM 211 (January 2016), pp. 1-2. In this case, Petitioner has one dependent child. Therefore, in determining Petitioner's MA status, the Department properly considered Petitioner as having a group size of two.

In order to determine income in accordance with MAGI rules, a client's adjusted gross income (AGI) is added to any tax-exempt foreign income, tax-exempt Social Security benefits, and tax-exempt interest. 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 2018 to estimate income for the year. *See* https://www.healthcare.gov/income-and-household-information/how-to-report/. Petitioner's pay stubs show that she pays dental insurance premiums on a monthly basis in the amount of $ and health insurance premiums each pay period totaling $ In addition, her pay stubs show that she receives gross pay of $ per pay period and is paid bi-weekly. Therefore, Petitioner's annual gross income is $ After consideration of her insurance premiums, her adjusted gross income is $ Petitioner's income is significantly greater than the income limit for LIF; therefore, she is not eligible for LIF.

Many individuals receive MA through HMP. HMP has an income limit of 133% of the FPL or $ based upon a group size of two. Therefore, Petitioner's income is also greater than the HMP income limit and she is not eligible under this program.

Since Petitioner is not disabled and was only at the time of her application, she does not qualify for AD-Care which requires for eligibility purposes an individual to be disabled or aged 65 or older. BEM 163 (July 2017), p. 1; BEM 240 (October 2017), p. 3.

Petitioner may still receive Medicaid subject to a monthly deductible through a Group 2 Medicaid category. Clients with a deductible may receive Medicaid if sufficient allowable medical expenses are incurred. BEM 105, p. 1; BEM 545 (October 2018), p. 1. Each calendar month is a separate deductible period. BEM 545, p. 11. The fiscal group's monthly excess income is called the deductible amount. *Id.* Meeting a deductible means reporting and verifying allowable medical expense that equal or exceed the deductible amount for the calendar month. *Id.* Petitioner is potentially eligible for a deductible through the Group 2 Caretaker (G2C) category.

Income eligibility for G2C exists when net income does not exceed the Group 2 needs in BEM 544. BEM 135 (October 2015), p. 2. The Department applies the MA policies in BEM 500, 530 and 536 to determine net income. *Id*.

The G2C net income calculation starts with determining Petitioner's pro-rated income. This is calculated by dividing Petitioner's gross income ($[redacted] minus $90.00 for a total amount of $[redacted] BEM 500 (July 2017); BEM 501 (October 2018), p. 6; BEM 536 (October 2017), p. 1. Next, $30 plus 1/3 of the fiscal group's remaining earned income is deducted if a member received Family Independence Program (FIP) or LIF in at least one month of the last four calendar months. BEM 536, p. 1. No evidence was presented that Petitioner was a FIP recipient, and she did not receive LIF in the any of the last four months prior to her application. After consideration of the FIP and LIF status, a deduction is provided for dependent care expenses arising from employment. BEM 536, p. 2. No evidence was presented of a dependent care expense for Petitioner's son. No evidence was presented of receipt of child support, other unearned income, or guardianship/conservator expenses; therefore, these steps of the calculation are skipped. BEM 536, p. 3. Finally, after consideration of all of the above income, expenses, and deductions, the remaining income is divided by the sum of the number of dependents and 2.9. BEM 536, p. 4. Petitioner's prorated divisor is 3.9 and her prorated share of the group's income is $[redacted] (dropping the cents). The Department properly calculated Petitioner's prorated income. Her fiscal group's net income is her prorated share of income multiplied by 2.9 or $[redacted] (dropping the cents) because she has dependents. BEM 536, p. 6.

The remainder of the calculations are governed by BEM 544 and 545. BEM 536, p. 7. Deductions are given for insurance premiums and remedial services. BEM 544 (July 2016), pp. 1-2. Petitioner's paystubs show that she pays medical and dental premiums as discussed above. The Department erred in failing to consider either of these items in Petitioner's budget. The protected income level (PIL) is a set allowance for non-medical need items such as shelter, food, and incidental expenses. *Id*. The PIL for G2C eligibility with a group size of one is $391.00 because Petitioner is a resident of Saginaw County (Shelter Area V). RFT 240 (December 2013), p. 1; RFT 200 (April 2017), p. 2. Petitioner has a group size of one for G2C purposes because in G2C the fiscal group includes the adult and the adult's spouse, if any. BEM 211 (January 2016), p. 9. The amount that Petitioner's net income exceeds the protected income level is the amount of her deductible. Since the Department failed to consider Petitioner's insurance premiums, her net income has not been properly calculated. Therefore, Petitioner's deductible is also not properly calculated.

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 did not act in accordance with Department policy when it closed Petitioner's son's MA benefit or when it calculated Petitioner's MA G2C deductible.

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. Reinstate and redetermine Petitioner's son's MA eligibility;

2. Recalculate Petitioner's MA deductible in accordance with Department policy; and,

3. Notify Petitioner in writing of its decision with regard to her son's MA eligibility and Petitioner's recalculated deductible.

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 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) 763-0155; 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	Kathleen Verdoni MDHHS-Saginaw-Hearings
Petitioner	[redacted] [redacted] [redacted] MI [redacted]
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