



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: June 21, 2019
MOAHR Docket No.: 19-004734
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 June 19, 2019, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Tracie Old, Hearing Facilitator.

ISSUE

Did the Department properly close Petitioner's child's Medical Assistance (MA) benefit case?

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 child was an ongoing MA recipient.
2. On April 2, 2019, the Department processed Petitioner's completed redetermination related to her child's MA benefit case (Exhibit A, pp. 1-9).
3. On April 2, 2019, the Department sent Petitioner a Verification Checklist (VCL) requesting verification of Petitioner's assets (Exhibit A, pp. 10-11).
4. On April 9, 2019, Petitioner submitted verification of her checking and savings accounts (Exhibit A, pp. 12-15).
5. Petitioner had income from employment.

6. On April 11, 2019, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) informing her that her child's MA benefit case was closing effective May 1, 2019, ongoing (Exhibit A, pp. 16-20).
7. Petitioner's child's MA benefit case was reinstated and the Department redetermined her eligibility.
8. On May 8, 2019, the department sent Petitioner a HCCDN informing Petitioner that her child's MA benefit case was closing effective May 1, 2019, ongoing.
9. Petitioner submitted a request for hearing disputing the Department's actions related to her child's MA benefit case.

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's child was an ongoing MA recipient. On April 2, 2019, the Department processed Petitioner's completed redetermination related to her child's MA benefit case. On April 11, 2019, the Department sent Petitioner a HCCDN informing her that her child's MA benefit case was closing effective May 1, 2019.

The Department testified that Petitioner's child's MA benefit case was closed due to the child's household income exceeding the income limit under the full-coverage U19 and MiChild MA programs. The U19 program is a Modified Adjusted Gross Income (MAGI) related MA category. BEM 131 (June 2015), p. 1. There are different MAGI U-19 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 U-19 income limit for Other Healthy Kids (OHK) is 54-143% of the FPL for children aged 0-19. The U-19 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. 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.

In order to determine income eligibility for MAGI-related programs, the household's MAGI income must be considered. In this case, Petitioner was not married and claimed her child as a dependent. Therefore, Petitioner's child's group size would be two. See BEM 211(January 2016), p. 1-2. 212% of the annual 2019 FPL, which is the maximum income limit for full-coverage MA for an individual under 19, for a two-member household is \$35,849.20 annually or 2,987.43 monthly.

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, 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/>.

Effective November 1, 2017, when determining eligibility for ongoing recipients of MAGI related MA, the State of Michigan has elected to base financial eligibility on currently monthly income and family size. See:

https://www.michigan.gov/documents/mdhhs/MAGI-Based_Income_Methodologies_SPA_17-0100_-_Submission_615009_7.pdf.

Petitioner testified that she is paid on a biweekly basis and is a salaried employee. As a result, Petitioner's biweekly gross income is always \$[REDACTED]. Petitioner stated she did not have any deductions for dependent care, health insurance or retirement. Petitioner's monthly income was \$[REDACTED]. Therefore, Petitioner's child's household income exceeded the income limit under the full-coverage U19 and MIChild programs.

The Department testified that Petitioner's child's MA benefit case was reinstated to determine eligibility for other programs. The Department sent Petitioner a second HCCDN on May 8, 2019, informing her that her child was ineligible for MA benefits

effective May 1, 2019. The Department testified that after redetermining Petitioner's child's MA eligibility, it was determined that her assets exceeded the limit under the only other MA program for which Petitioner's child qualified for, the Group 2 Persons Under Age 21 (G2U) category.

G2U is a group 2 MA category. BEM 132 (April 2018), p. 1. For Group 2, eligibility is possible when net income exceeds the income limit. BEM 105 (April 2017), p. 1. Under G2U, countable assets cannot exceed the asset limit in BEM 400. BEM 132, p. 2. For G2U, the asset limit is \$3,000. BEM 400 (April 2019), p. 7. For G2U, the asset group includes the child and the child's parents. BEM 211 (February 2019), p. 8.

The Department presented verification of Petitioner's checking and savings accounts. According to the documents provided, Petitioner had \$7,269.40 in her savings account. As the amount exceeded the \$3,000 limit, the Department determined Petitioner's child was not eligible for MA benefits under the G2U program.

Petitioner testified that her account balance at the time she completed the redetermination was well in excess of what was usual, as she had just received her tax return. Petitioner testified that in March 2019, she received her tax return which was around \$[REDACTED]. Petitioner stated she transferred her tax return from her checking account into her savings account.

Countable assets when determining eligibility under the G2U program includes cash assets. BEM 400, p. 1. Funds in checking and savings accounts are considered countable cash assets. BEM 400, p. 15. All state and local earned income tax credits and refunds are excluded, including home heating credits. BEM 400, p. 21. Federal income tax refunds are excluded for 12 months from the month of receipt. BEM 400, p. 22. The refund amount is subtracted from the household's total assets to determine if they meet the asset limit. BEM 400, p. 22.

Petitioner's testimony was credible. When reviewing the verifications, Petitioner received a tax refund on March 13, 2019, in the amount of \$[REDACTED]. Petitioner then made an immediate transfer of \$4,000 into her savings account. Petitioner made several other transfers to her savings account over the course of the following month. The Department did not deduct the tax refund from Petitioner's asset total. Therefore, the Department did not act in accordance with policy when it determined Petitioner's child was not eligible for MA benefits under the G2U program. Thus, the Department did not act in accordance with policy when it closed Petitioner's child's MA benefit case.

DECISION AND ORDER

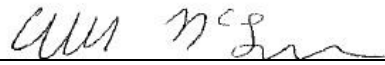
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it closed Petitioner's child's MA benefit case.

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 benefit eligibility as of May 1, 2019, ongoing;
2. If Petitioner's child is eligible for MA benefits, provide her with coverage she is entitled to receive; and
3. Notify Petitioner of its decision in writing.

EM/cg



Ellen McLemore
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

Via Email:

MDHHS-Jackson-Hearings
D. Smith
EQAD
BSC4- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

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