



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: June 17, 2019
MOAHR Docket No.: 19-004978
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 June 12, 2019, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Jeffrey Robinson, Family Independence Manager.

ISSUE

Did the Department properly close Petitioner's Medical Assistance (MA) Program case for the MiChild category and place her in the Group 2 Under 21 (G2U) category?

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 September 28, 2018, Petitioner turned age [REDACTED]
2. On November 8, 2019, the Department received copies of Petitioner's pay stubs, but they were difficult to read.
3. On November 19, 2018, the Department received Petitioner's verification of employment since June 1, 2018, as well as better copies of her pay stubs from pay dates October 10, 2018 through November 7, 2018.
4. On November 26, 2018, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner informing her that she was eligible for full coverage MA benefits for November 2018, but that effective December 2018, she would have MA with a deductible of \$675.00 per month.

5. On January 16, 2019, the Department received Petitioner's request for hearing disputing her placement in an MA deductible program as well as the amount of the deductible.

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 loss of her MICHild coverage, placement in a deductible MA category, and the amount of the deductible.

MICHild is a Modified Adjusted Gross Income (MAGI)-related MA program for children who are under age 19 and have no other health care coverage. BEM 130 (July 2016), p. 1. Since Petitioner turned 19 years of age on September 28, 2019, Petitioner was no longer eligible for MICHild and the Department properly closed the MICHild case.

Petitioner was then placed in the G2U category of MA which is available to a person who is under 21 years of age and meets all other eligible factors. BEM 132 (April 2018), p. 1. Generally, MA is available (i) to individuals who are aged (65 or older), blind or disabled under SSI-related categories, (ii) to individuals who are under age 19, parents or caretakers of children, or pregnant or recently pregnant women, and (iii) to individuals who meet the eligibility criteria for Healthy Michigan Plan (HMP) coverage. BEM 105 (April 2017), p. 1. HMP provides MA coverage to individuals who (i) are 19 to 64 years of age; (ii) have income at or below 133% of the federal poverty level (FPL) under the Modified Adjusted Gross Income (MAGI) methodology; (iii) do not qualify for or are not enrolled in Medicare; (iv) do not qualify for or are not enrolled in other MA programs; (v) are not pregnant at the time of application; and (vi) are residents of the State of Michigan. BEM 137 (April 2018), p. 1; MPM, Healthy Michigan Plan, § 1.1.

Since Petitioner is aged ■ and no evidence was presented that she was pregnant, disabled, or a Medicare recipient, she is potentially eligible for HMP if she meets the income requirements. HMP requires a determination of group size under the MAGI methodology with consideration of the client's tax status and dependents. The household for a tax filer, who is not claimed as a tax dependent includes the individual, their spouse, and tax dependents. BEM 211 (January 2016), pp. 1-2. No

evidence was presented that Petitioner was claimed as a dependent, nor that she was married or had her own dependents. Therefore, Petitioner's MA group size is one Petitioner. 133% of the FPL for a group size of one is \$16,611.70 as of January 11, 2019. See <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for HMP, Petitioner's annual income cannot exceed \$16,611.70 for a group size of one or \$1,384.30 per month.

To determine financial eligibility under HMP, income must be calculated in accordance with MAGI under federal tax law. MAGI is based on Internal Revenue Service rules and relies on federal tax information. BEM 500 (July 2017), p. 3. Income is verified via electronic federal data sources in compliance with MAGI methodology. MREM, § 1. In determining an individual's eligibility for MAGI-related MA, the Department bases financial eligibility on current monthly household income. MAGI is calculated by reviewing the client's adjusted gross income (AGI) and adding it 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. *Id.* 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, childcare, or retirement savings. *Id.* See <https://www.healthcare.gov/income-and-household-information/how-to-report/>. In situations where income is difficult to predict because of unemployment, self-employment, commissions, or a work schedule that changes regularly, income should be estimated based upon past experiences, recent trends, possible changes in the workplace, and similar information. *Id.*

Petitioner had the following before-tax wages:

October 10, 2018	\$	██████████
October 17, 2018	\$	██████████
October 24, 2018	\$	██████████
November 7, 2018	\$	██████████

Therefore, her combined monthly income is \$██████████ which when multiplied by 12 months is a total annual income of \$██████████. Petitioner's monthly and annual income falls well below the HMP income limit. Since Petitioner was placed in a Group 2 category, she was provided limited MA coverage because of the deductible. BEM 105 (April 2017), p. 1. The Department erred by placing Petitioner in a deductible program as she was eligible for full coverage under the HMP category and clients are entitled to the most beneficial MA category available to them. BEM 105, p. 2.

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 placed Petitioner in the Group 2 Under 21 MA category.

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. Redetermine Petitioner's MA eligibility effective December 1, 2018, ongoing;
2. If Petitioner is otherwise eligible, issue supplements to Petitioner or on her behalf for benefits not previously received;
3. Notify Petitioner in writing of its decision.

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 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

DHHS

Linda Gooden
MDHHS-Oakland-6303-Hearings

Petitioner

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