



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: July 1, 2019
MOAHR Docket No.: 19-005159
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 June 24, 2019, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Amanda Mullen, Hearings Facilitator, and Wendy Graves, Eligibility Specialist.

ISSUE

Did the Department properly determine Petitioner's, her husband's, and her son's Medical Assistance (MA) Program 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, her husband, and her son were ongoing MA recipients.
2. Petitioner and her husband were previously enrolled in the Parent/Caretaker Relative or Low-Income Family (LIF) MA benefits.
3. Petitioner's son was previously enrolled in Under Age 19 MA.
4. On March 28, 2019, the Department received a completed Redetermination from Petitioner listing employment for herself at ██████████ and employment for her husband at ██████████.
5. On the same day, the Department also received a letter from Petitioner wherein she indicated that she was no longer working for ██████████ or ██████████ in addition to paystubs for Petitioner's husband from March 8, 2019 through

March 21, 2019, Petitioner's last paystubs from [REDACTED] dated March 8, 2019 and March 22, 2019, as well as a letter from [REDACTED] indicating that Petitioner was no longer employed as of June 2018.

6. On April 19, 2019, Petitioner submitted a letter and paystub from her new employer, [REDACTED], dated April 12, 2019.
7. On April 23, 2019, the Department issued a Verification Checklist (VCL) to Petitioner requesting proof of wages for Petitioner's husband by May 3, 2019 from [REDACTED].
8. On April 29, 2019, the Department received a letter from Petitioner indicating her work was temporary in addition to copies of Petitioner's husband's paystubs from her husband's employer for pay date April 1, 2019.
9. On April 30, 2019, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner informing her that her son was eligible for transitional full coverage MA effective May 1, 2019, and MA with a deductible effective June 1, 2019 in the amount of \$3,632.00 per month.
10. The HCCDN also informed Petitioner that her and her husband were ineligible for MA benefits because their income exceeded the limit for MA coverage based upon their group size.
11. On May 2, 2019, Petitioner resubmitted a letter indicating her work was temporary in addition to paystubs for her husband dated April 1, 2019.
12. On May 13, 2019, the Department received Petitioner's request for hearing disputing the determination of 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 disputed the Department's determination to place Petitioner's son in a deductible MA program and to close Petitioner's and her husband's MA benefits.

Petitioner's Son

Children over age one and under age 19 are potentially eligible for three programs: (1) the Under Age 19 (U19) program; (2) the MiChild program; and (3) the Group 2 Under 21 (G2U) program. BEM 105 (April 2017), pp. 1, 3-4; BEM 130 (July 2016), p. 1; BEM 131 (June 2015), p. 1; BEM 132 (January 2015), p. 1. The U19 program is a Modified Adjusted Gross Income (MAGI)-related Group 1 MA category, meaning that it provides full-coverage MA without a deductible for children whose household's income, calculated in accordance with MAGI rules, meets the income eligibility limits. BEM 131, p. 1. Income eligibility for MiChild is also determined according to MAGI rules. BEM 130, p. 1. Children whose household income exceeds the income limit for U19 or MiChild eligibility are eligible for MA under the G2U category, with a deductible equal to the amount the child's net income (countable income minus allowable income deductions) exceeds the applicable Group 2 MA protected income level (PIL), which is based on the county in which the child resides and child's fiscal group size. BEM 132, p. 2; BEM 544 (July 2016), p. 1; RFT 240 (December 2013), p. 1. Under federal law, the child is entitled to the most beneficial category, which is the one that results in eligibility, the least amount of excess income, or the lowest cost share. BEM 105, p. 2.

In this case, the Department concluded that Petitioner's child was income-ineligible for MA coverage under either the U19 or MiChild categories. There are three U19 categories for children over age 6: the Low Income Families (LIF) program applies when the household's income does not exceed 54% of the federal poverty level (FPL); the Other Healthy Kids (OHK) program applies when the household's income is between 54% and 143% of the FPL; and the Healthy Kids Expansion (HKE) program applies when the household's income is between 109% and 160% of the FPL. BEM 131 (June 2015), p. 1. A child between ages 1 through 18 whose household income is between 160% and 212% of the FPL is income eligible for MiChild subject to a monthly \$10 premium per family. BEM 130 (July 2016), pp. 1-2. A 5% disregard may be applied when necessary to make a person eligible for MA benefits. MREM, § 7.2.

In order to determine income eligibility for MAGI-related U19 and MiChild programs, the household's MAGI income must be considered. A determination of group size under the MAGI methodology requires consideration of the client's tax status and dependents. The household of a tax dependent consists of the household of the tax filer claiming the individual as a tax dependent. BEM 211 (February 2019), p. 2. Therefore, Petitioner's son's group size for MAGI purposes is three. 54% of FPL for LIF eligibility is \$11,518.20 or \$12,584.70 when the 5% disregard is applied. 160% of the annual 2019 FPL for HKE eligibility for a three-person household is \$34,128.00 or \$35,194.50 when the 5% disregard is applied. 212% of the annual 2016 FPL for MiChild eligibility for a three-member household is \$45,219.60 or \$46,286.10 when the 5% disregard is applied.

In determining MA eligibility for Petitioner's son, the Department relied upon Petitioner's household reported income from [REDACTED] for Petitioner and [REDACTED] for her husband. To determine financial eligibility, 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.* This figure is multiplied by the number of paychecks the client expects during the year to estimate income for the entire year. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>.

Petitioner had reported income from [REDACTED] in the amount of \$[REDACTED] before taxes for a two-week period. There were no applicable MAGI deductions. Therefore, her annual MAGI income is \$[REDACTED] or \$[REDACTED] per month. Petitioner's husband had wages of \$[REDACTED] on March 8, 2019; \$[REDACTED] on March 15, 2019; \$[REDACTED] on March 20, 2019; \$[REDACTED] on March 21, 2019; and \$[REDACTED]0 on April 1, 2019. His wages are paid inconsistently and what appears on a per job basis or almost on a weekly basis. Since the month of their Redetermination was March 2019, only those wages received in March 2019 for Petitioner's husband will be considered. His total March 2019 wages were \$[REDACTED]. Their combined monthly household income is \$[REDACTED] or \$[REDACTED] annually. Based upon this calculated MAGI income, Petitioner's son is ineligible for LIF and HKE. However, Petitioner's son falls within the income threshold for MiChild. Since the Department originally determined Petitioner's son to be eligible for MA with a deductible of \$3,632.00, it is clear that the more beneficial category for his MA eligibility is MiChild. No other evidence was presented as to why Petitioner would not be eligible for MiChild; therefore, the Department has not met its burden of proof in establishing Petitioner's son's MA eligibility.

Petitioner and Her Husband

Petitioner and her husband were denied MA benefits due to excess income for both the parent/caretaker category as well as the Healthy Michigan Plan (HMP). LIF is available to individuals who are either a parent/caretaker relative (PCR) of dependent children or a child under age 19 (U19). BEM 110 (April 2018), p. 1. As discussed above, its income limit is 54% of FPL which equates to \$11,518.20 or \$12,584.70 when the 5% disregard is applied. Petitioner's and her husband's income exceeds the LIF income limit.

Since they are not eligible for LIF, Medicaid is available under (i) under Supplemental Security Income (SSI)-related categories to individuals who are aged (65 or older), blind or disabled, (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.

No evidence was presented that Petitioner or her husband are eligible for MA under any other category except possibly HMP as they do not meet the nonfinancial eligibility requirements.

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 a Medicare Recipient, she is not eligible for HMP.

Since HMP is also a MAGI category, the rules discussed above for determining income apply. The one distinction is that the household for a tax filer who is not claimed as a tax dependent consists of themselves, their spouse, and their tax dependents. BEM 211 (February 2019), p. 2. Therefore, the group size is still three people for Petitioner and her husband. HMP has an income limit of 133% of the FPL which totals \$28,368.90 or \$29,435.40 if the 5% disregard is applied. Petitioner and her husband have income greater than the income limit for HMP; therefore, they are not eligible for HMP.

At the hearing and in the documentation submitted by Petitioner to verify income, she repeatedly noted that her income situation was expected to change in May 2019. Since the change had not yet occurred, the change could not be considered in determining eligibility of any household member. Therefore, the change in income is not evaluated here.

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 acted in accordance with Department policy when it closed Petitioner's and her husband's MA benefits but failed to satisfy its burden of showing that it acted in accordance with Department policy when it placed Petitioner's son MA eligibility.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to Petitioner's and her husband's MA eligibility and **REVERSED IN PART** with respect to Petitioner's son's MA eligibility.

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 son's MA eligibility effective June 1, 2019;
2. If otherwise eligible, issue supplements to Petitioner for her son or on her son's behalf for benefits not previously received; and,
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

Carisa Drake
MDHHS-Calhoun-Hearings

Petitioner

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[REDACTED] MI [REDACTED]

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