



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: August 26, 2019  
MOAHR Docket No.: 19-007240  
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 August 21, 2019, from Detroit, Michigan. The Petitioner was self-represented and had her boyfriend's mother, [REDACTED] appear as a witness. The Department of Health and Human Services (Department) was represented by [REDACTED], Assistance Payments Supervisor, and [REDACTED], Eligibility Specialist.

### **ISSUE**

Did the Department properly determine Petitioner's 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. A Wage Match prompted review of Petitioner's son's MA eligibility.
2. Petitioner was employed with [REDACTED] (Employer 1) earning a bi-weekly wage during the review period of this case.
3. The father of Petitioner's child (Father) was employed with [REDACTED] [REDACTED] [REDACTED] (Employer 2) earning a bi-weekly wage during the review period of this case.
4. On April 4, 2019, the Department issued a Health Care Coverage Determination Notice (HCCDN) to Petitioner informing her that her son was eligible for MA

benefits with a deductible of [REDACTED] (in the Group 2 Under Age 21 category) per month effective May 1, 2019.

5. On July 5, 2019, the Department received Petitioner's request for hearing disputing the Department's decision to place her son 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 Department's determination of her son's MA eligibility. The Department placed Petitioner's son in the G2U deductible MA category. 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 under 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 143% and 160% of the FPL. BEM 131 (June 2015), p. 1. A child between age 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.

In order to determine income eligibility for MAGI-related U19 and MICHild programs, the household's MAGI income must be considered. In this case, the minor child lives with Petitioner and Father, Petitioner is a tax-filer, and no evidence was presented that she does not claim the child as her tax dependents. Therefore, the child had a household size of three. 4 CFR 435.603(f)(2-3). The FPL for a group size of three in 2019 is [REDACTED]; therefore, 160% of the annual 2019 FPL for HKE eligibility for a three-person household is [REDACTED], or [REDACTED] when the 5% disregard is applied. 212% of the annual 2019 FPL for MICHild eligibility for a three-member household is \$45,219.60, or \$46,286.10 when the 5% disregard is applied.

To determine financial eligibility under both programs, 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.* 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. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>.

In May 2019, the month under review, Petitioner had earnings of [REDACTED] on May 10, 2019 and [REDACTED] on May 24, 2019. For the same month on the same paydates, Father had wages of [REDACTED] and [REDACTED]. Therefore, their combined total monthly income was \$[REDACTED] or [REDACTED] annually. Petitioner's son is not eligible for the HKE or MICHild categories of MA benefits.

Even though Petitioner's child is not eligible for MA under any of the full-coverage MAGI-related policies, the Department concluded that he was eligible for MA under the G2U category, with MA subject to a monthly deductible of [REDACTED] effective May 1, 2019. An individual under age 21 who is not eligible for MA under MAGI-related policies is eligible for MA under a Group 2 Under 21 (G2U) category when he meets all eligibility requirement other than income. BEM 132 (April 2018), p. 1. In such cases, the client is eligible for MA coverage with a deductible, with the deductible equal to the amount the net income (countable income minus allowable income deductions) exceeds the applicable Group 2 MA protected income level (PIL). BEM 132, p. 2; BEM 544 (July 2016), p. 1. The PIL is based on the client's shelter area (county in which the client resides) and fiscal group size. BEM 132, p. 2; BEM 544, p. 1; RFT 240 (December 2013), p. 1; RFT 200 (April 2017), p. 3.

The Department presented a G2-FIP-related MA budget showing the calculation of the deductible effective May 2019. The PIL for Petitioner's son, who lives with Petitioner in [REDACTED] County is [REDACTED] which was correctly listed by the Department on the budget. RFT 240, p. 1; RFT 200, p. 2.

Income eligibility exists when net income does not exceed the Group 2 needs in BEM 544 and all policies found in BEM 500, 530, and 536 are applied to determine net income. BEM 132, p. 2. The G2U net income calculation starts with determining Petitioner's and her husband's pro-rated income. This is calculated by subtracting a [REDACTED] standard work expense from any earned income, a deduction for [REDACTED] plus 1/3 of the remaining earned income if the group member received Family Independence Program (FIP) or LIF benefits in one of the last four months, in addition to subtracting any dependent care expenses arising from costs while working, and child support. BEM 500 (July 2017); BEM 536 (November 2018), p. 1-3. Petitioner's total countable earnings are \$[REDACTED] and Father's are \$[REDACTED]. After the countable earnings are calculated, [REDACTED] is deducted from each for new totals of \$[REDACTED] and \$[REDACTED] respectively. No evidence was presented that Petitioner, Father, or child were FIP or LIF recipients in the four months prior to the Department's decision; therefore, there is no additional deduction here. Next, any unearned income and child support income is added to the new earned income total to achieve the total net income and there were no other sources of income presented here. BEM 536, p. 3. Therefore, their respective net incomes are [REDACTED] and [REDACTED]. No evidence was presented of guardianship/conservator or child support expenses; therefore, these steps of the calculation is 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 living with the fiscal group and 2.9. BEM 536, p. 4. Dependents is defined as a person's spouse and children. *Id.* The household contains Petitioner, Father, and Petitioner's son. Policy also provides that for SSI-Related MA childrens' cases, the income from the child's parents must be considered in determining eligibility. BEM 540 (January 2019), p. 1. Therefore, the prorated divisor is 5.9. As a result, Petitioner's prorated share of net income is [REDACTED]. Father's prorated share of net income is \$[REDACTED]. Finally, the child's fiscal group's net income is calculated by adding

the child's net income plus 3.9 times the prorated share of each parent's own income, plus one prorated share of each parent's income if the parents are married and both parents are in the fiscal group. BEM 536, p. 6. Therefore, Petitioner's son's fiscal group's net income is [REDACTED] BEM 536, pp. 6-7.

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. No evidence was presented that anyone in the household was responsible for insurance premiums or remedial services. Therefore, the total net income is [REDACTED]. To achieve the deductible, the protected income level (PIL) is subtracted from the total net income. The PIL is a set allowance for non-medical need items such as shelter, food, and incidental expenses. *Id.* As discussed above, the PIL for Petitioner's son is \$[REDACTED]. After subtracting the PIL, Petitioner's son's deductible is \$2,985.27. The Department calculated a deductible less than the amount determined by this decision. Since the calculations made by the Department are more beneficial to Petitioner's son, those deductible calculations are affirmed and will not be changed for purposes of this decision.

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 placed Petitioner's son in the G2U MA category.

### **DECISION AND ORDER**

Accordingly, the Department's decision is **AFFIRMED**.

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**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**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED]  
[REDACTED]

**cc:**

[REDACTED]  
[REDACTED]