



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: October 16, 2019
MOAHR Docket No.: 19-008854
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: John Markey

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 October 2, 2019 from Detroit, Michigan. Petitioner appeared and represented herself. The Department of Health and Human Services (Department) was represented by [REDACTED] Eligibility Specialist. During the hearing, a 19-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-19.

ISSUE

Did the Department properly determine the Medicaid (MA) eligibility of Petitioner's minor daughter, [REDACTED], effective May 1, 2019, ongoing?

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 works full-time and receives a paycheck every two weeks. Each paycheck is for [REDACTED] in gross income. Petitioner's household consists of herself and her minor daughter. Exhibit A, pp. 17-18.
2. On June 21, 2019, Administrative Law Judge Ellen McLemore issued a Hearing Decision ordering the Department to redetermine the MA eligibility of Petitioner's daughter back to May 1, 2019, ongoing. Exhibit A, pp. 1-6.

3. On June 24, 2019, the Department issued to Petitioner a Health Care Coverage Determination Notice informing Petitioner that her daughter was eligible for MA subject to a [REDACTED] monthly deductible, effective May 1, 2019. Exhibit A, pp. 9-11.
4. On August 12, 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's determination of her daughter's MA eligibility, effective May 1, 2019.

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 requested a hearing to contest the Department's finding that her daughter was eligible for MA subject to a [REDACTED] monthly deductible. The Department's determination was based on the household composition and Petitioner's paycheck stubs, which show that Petitioner received gross income of [REDACTED] every two weeks.

Children over age 1 and under age 19 who are not eligible for MA for foster care children are potentially eligible for MA under 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), p. 1, 3-4; BEM 130 (July 2016), p. 1; BEM 131 (June 2015), p. 1; BEM 132 (April 2018), 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, 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, Petitioner is a tax-filer, and she claims the child as her tax dependent. Therefore, the child had a household size of two. See BEM 211 (February 2019), pp. 1-2. 160% of the annual 2019 FPL for HKE eligibility for a two-person household is \$27,056, or \$28,409 when the 5% disregard is applied. 212% of the annual 2019 FPL for MiChild eligibility for a two-member household is \$35,849.20, or \$37,641.66 when the 5% disregard is applied.

In this case, the Department testified that it relied on information from Petitioner's paycheck stubs to determine Petitioner's monthly income. This shows gross monthly income of [REDACTED]. Because the Department must consider current monthly household income and family size in determining MAGI MA eligibility, Petitioner's income based on paycheck stubs provided should be used in determining the child's eligibility for LIF, OHK, HKE, and MiChild MA.

In determining income in accordance with MAGI, a client's adjusted gross income (AGI) is added 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. 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. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>

Petitioner did not have any applicable deductions. Thus, Petitioner's gross monthly income of \$[REDACTED] is also Petitioner's adjusted gross income. Based on gross monthly MAGI income of [REDACTED], Petitioner has annual income of [REDACTED]. Based on Petitioner's MAGI income of \$[REDACTED], the child is not income eligible for MA under any of the MAGI-related policies. Therefore, the Department properly concluded that the child was not eligible for MA under LIF, HKE, OHK, or MiChild.

Even though the child is not eligible for MA under any of the full-coverage MAGI-related policies, the Department concluded that she was eligible for MA under a G2U program, with MA subject to a monthly deductible of \$2,602, 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 she meets all eligibility requirements other than income. BEM 132, 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). 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, p. 1.

The Department presented a G2-FIP-related MA budget showing the calculation of the deductible for August 2019. Exhibit A, p. 19. The PIL for Petitioner's daughter, who lives with Petitioner in ██████ County, is \$████, as shown on the budget. RFT 240, p. 1; RFT 200 (April 2017), p. 1.

The amount of the deductible is the amount in which net income exceeds the protected income limit. The Department calculated Petitioner's net income to ██████, slightly less than what it actually was. As any error in that calculation worked to Petitioner's benefit, it will be left undisturbed. Subtracting the ██████ protected income limit from the ██████ net income results in a remaining figure of ██████. That is the deductible. That is also what the Department determined to be the deductible. Accordingly, the Department's determination of MA eligibility for Petitioner's daughter was correct.

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 determined ██████ eligibility for MA benefits, effective May 1, 2019.

DECISION AND ORDER

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

JM/tm



John Markey
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]