



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: March 12, 2020
MOAHR Docket No.: 20-000545
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on March 11, 2020, from Lansing, Michigan. Petitioner, [REDACTED], appeared and represented herself. Respondent, Department of Health and Human Services (Department), had Melissa Stanley, Hearing Facilitator, and Rollin Carter, Hearing Facilitator, appear as its representatives. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 39-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUES

Did the Department properly determine Petitioner's children's Medical Assistance (MA) eligibility when the Department determined that MA through MICHild was the best available health care coverage that Petitioner's children were eligible for?

Did the Department properly determine Petitioner's Medical Assistance (MA) eligibility when the Department determined that MA with a spenddown was the best available health care coverage that Petitioner was eligible for?

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 has a household size of three, which consists of Petitioner and her two minor children.

2. Petitioner's household income consists of Petitioner's income from employment at [REDACTED]. Petitioner works full-time at [REDACTED] and receives [REDACTED] per hour.
3. Petitioner provided the Department with two biweekly check stubs to verify her income. Petitioner provided the Department with an October 24, 2019, check stub that showed Petitioner worked 104.11 hours and received gross pay of [REDACTED]. Petitioner also provided the Department with a November 7, 2019, check stub that showed Petitioner worked 85.41 hours and received gross pay of [REDACTED]. The check stubs also showed that Petitioner was paid for mileage on both pay dates.
4. Petitioner received [REDACTED] for child support in 2019. The child support was paid in one payment. Petitioner does not receive child support payments on a regular basis.
5. The Department reviewed Petitioner's check stubs along with the child support she received, and the Department determined that Petitioner's annual household income was [REDACTED]. The Department included Petitioner's mileage payments as income when it determined her annual household income.
6. Based on Petitioner's annual household income of [REDACTED], the Department determined that the best available health care coverage that Petitioner was eligible for was MA with a spenddown. The Department also determined that the best available health care coverage her minor children were eligible for was through MICHild, which has a \$10.00 monthly premium.
7. On December 17, 2019, the Department mailed a health care coverage determination notice to Petitioner to notify her that her two minor children were eligible for full-coverage MA through the MICHild program effective January 1, 2020. The notice stated that the Department determined Petitioner's household income was [REDACTED].
8. Petitioner has had MA with a spenddown since September 2019.
9. On January 27, 2020, Petitioner requested a hearing because Petitioner disagreed with the amount of household income the Department stated she had on the December 17, 2019, health care coverage determination notice. Petitioner wants full-coverage MA for herself.

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 administers the MA program pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k.

In this case, Petitioner is disputing the amount of her annual household income as determined by the Department. On December 17, 2019, the Department mailed a health care coverage determination notice to Petitioner, which notified Petitioner that it determined her annual household income was [REDACTED]. Petitioner presented sufficient evidence to establish that the Department incorrectly determined the amount of her annual household income.

Based on the check stubs that Petitioner provided to the Department and based on Petitioner's receipt of child support, Petitioner's annual household income as of December 2019 was [REDACTED]. Petitioner's two biweekly check stubs average [REDACTED], which equals [REDACTED] when annualized. Petitioner's child support is not considered income for MA determinations based on MAGI, including MICHild, Healthy Kids, and Healthy Michigan Plan. BEM 503 (October 1, 2019), p. 7.

PETITIONER'S CHILDREN'S MA

The Department determined that MA through MICHild was the best available health care coverage that Petitioner's children were eligible for. MICHild provides health care coverage for children under 19 years old who have no other health insurance and meet the program's income requirements. BEM 130 (October 1, 2019), p. 1. The income requirement for children aged 1 through 18 is that income must be within 160% to 212% of the Federal Poverty Level (FPL). *Id.*

The FPL for a household size of three in 2019 was \$21,330.00. 84 FR 1167 (February 1, 2019), p. 1167-1168. Since Petitioner's annual household income was [REDACTED], Petitioner's annual household income was 151% of the FPL. Since Petitioner's annual household income was not within 160% to 212% of the FPL, the Department improperly determined that MA through MICHild was the best available health care coverage that Petitioner's children were eligible for.

Healthy Kids is a program that provides health care coverage for children under 19 years old who have no other insurance and have income less than 160% of the FPL. BEM 131 (June 1, 2015), p. 1. Healthy Kids does not have a monthly premium like MICHild. Since Petitioner's annual household income was less than 160% of the FPL, Petitioner's children were eligible for MA without a monthly premium through Healthy Kids.

The Department's determination that MA through MICHild was the best available health care coverage that Petitioner's children were eligible for is reversed. The Department

shall review Petitioner's children's eligibility consistent with this decision and issue a new health care coverage determination notice to Petitioner.

PETITIONER'S MA

The Department determined that MA with a spenddown was the best available health care coverage that Petitioner was eligible for. Petitioner asserted that she should have been eligible for full-coverage MA based on her income.

Full-coverage MA is available through the Healthy Michigan Plan for individuals aged 19 to 64 who have no other health insurance and meet the program's income requirements. BEM 137 (January 1, 2019), p. 1. The income requirement is that income must be at or below 133% of the FPL. *Id.* As discussed in the section on Petitioner's children's MA, Petitioner's annual household income was 151% of the FPL. Since Petitioner's annual household income was not at or below 133% of the FPL, the Department properly found Petitioner ineligible for full-coverage MA through the Healthy Michigan Plan. Since Petitioner was ineligible for full-coverage MA through the Healthy Michigan Plan, the Department properly determined that MA with a spenddown was the best available health care coverage that Petitioner was eligible for.

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 (a) the Department did not act in accordance with its policies and the applicable law when it determined that MA through MICHild was the best available health care coverage that Petitioner's children were eligible for, and (b) the Department did act in accordance with its policies and the applicable law when it determined that MA with a spenddown was the best available health care coverage that Petitioner was eligible for.

IT IS ORDERED that the Department's decision is REVERSED IN PART.

JK/ml



Jeffrey Kemm
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

Saginaw County DHHS – Via Electronic Mail

D. Smith – Via Electronic Mail

EQAD – Via Electronic Mail

Petitioner

[REDACTED] – Via First Class Mail
[REDACTED] MI [REDACTED]