



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
SUZANNE SONNEBORN
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA
ACTING DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]

Date Mailed: January 23, 2024
MOAHR Docket No.: 23-007611
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 January 18, 2024, via conference line. Petitioner was present and was unrepresented. The Department of Health and Human Services (Department) was represented by Kenika Bradley, Eligibility Specialist.

ISSUE

Did the Department properly close Petitioner's children's Medical Assistance (MA) benefit cases?

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's children were ongoing MA recipients.
2. On October 16, 2024, Petitioner completed a redetermination related to her children's MA benefit cases (Exhibit A, pp. 13-19).
3. Petitioner's household consisted of herself, her husband and her two children.
4. Petitioner had income from employment, foreign based income and income from dividends.

5. On October 19, 2023, the Department sent Petitioner a Health Care Coverage Determination Notice informing her that her children's MA benefit cases were closing effective November 1, 2023, ongoing (Exhibit A, pp. 22-27).
6. On October 30, 2023, Petitioner submitted a request for hearing disputing the Department's determination related to her children's MA benefit cases.

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's children were ongoing MA beneficiaries. In October 2023, Petitioner completed a redetermination related to her children's MA benefit cases. The Department determined that Petitioner's children exceeded the income limit for the MA programs for which they qualified. As a result, the Department closed Petitioner's children's MA benefit cases.

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 children were 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, 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, Petitioner filed taxes jointly with her husband and claimed her two minor children as dependents. Therefore, the children have a household size of four. See BEM 211 (January 2016), pp. 1-2. 212% of the annual 2023 FPL for MICHild, which has the highest income limit, for a four-member household is \$65,100, when the 5% disregard is applied, or \$5,425 per month.

Generally, household income for MAGI-related MA eligibility is the sum of the MAGI-based income of every individual included in the individual's household, minus an amount equivalent to five percentage points of the FPL for the applicable family size. 42 CFR 435.603(d)(1). However, the MAGI-based income of an individual who is included in the household of his or her natural parent and is not expected to be required to file a tax return for the taxable year in which eligibility for MA is being determined is not included in the household income whether or not such tax dependent files a tax return. 42 CFR 435.603(d)(2)(i).

To determine financial eligibility under MAGI-related MA programs, income must be calculated in accordance with MAGI under federal tax law. BEM 500 (January 2016), p. 3. MAGI is based on Internal Revenue Service rules and relies on federal tax information. BEM 500, p. 3. Income is verified via electronic federal data sources in compliance with MAGI methodology. MREM, § 1.

In order to determine income in accordance with MAGI, a client's adjusted gross income (AGI) is added to any tax-exempt foreign income, 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: (i) any money the employer takes out for health coverage, childcare, or retirement savings (ii) student loan interest paid; (iii) penalties for early withdrawal of savings; (iv) health savings account contributions; (iv) certain self-employment business related expenses not included in net income; (v) alimony settlements finalized before December 31, 2018; (vi) net operating losses; and (vii) certain business expenses of performing artists, reservists, and fee-based government officials. See: [MAGI 2.0: Building MAGI Knowledge Part 2 – Income Counting \(medicaid.gov\)](#)

Effective November 1, 2017, when determining eligibility for ongoing recipients of MAGI related MA, the State of Michigan has elected to base financial eligibility on current monthly income and family size. See:

https://www.michigan.gov/documents/mdhhs/MAGI-Based_Income_Methodologies_SPA_17-0100_-_Submission_615009_7.pdf

The Department testified that it utilized the self-reported income provided by Petitioner in her redetermination to determine her children's MA eligibility (Exhibit A, p. 15). At the hearing, Petitioner conceded that the figures reported to the Department were correct. Petitioner clarified that she receives \$[REDACTED] gross income twice per month from her employment at [REDACTED]. Petitioner stated that she does not have any pretax deductions. Therefore, Petitioner's countable monthly income at [REDACTED] is \$[REDACTED]. Petitioner also reported that she receives \$[REDACTED] in foreign based income. Whether or not the foreign based income is tax exempt, it is included for purposes of MAGI based eligibility. Additionally, Petitioner reported that she invested in her friend's company and receives \$[REDACTED] twice per month in dividends. AGI includes wages, dividends, capital gains, business income, and retirement distributions. See: [Definition of Adjusted Gross Income | Internal Revenue Service \(irs.gov\)](#). Petitioner did not allege any MAGI-based deductions. Therefore, Petitioner's total monthly dividend income is \$[REDACTED]. Petitioner's total countable monthly income is \$[REDACTED], which exceeds the income limit under the MiChild MA program. Therefore, the Department properly determined that Petitioner's children were not eligible for MA benefits under the U19 or MiChild MA programs.

Although Petitioner's children were not eligible for MA benefits under MiChild or U19, Petitioner's children are eligible for MA benefits under the G2U MA program. G2U is a Group 2 MA program. Group 2 eligibility for MA coverage is possible even when net income exceeds the income limit for full MA coverage. BEM 105, p. 1. In such cases, the client is eligible for MA coverage with a deductible, with the deductible equal to the amount the individual's net income (countable income minus allowable income deductions) exceeds the applicable Group 2 MA protected income level (PIL), which is based on the client's shelter area (county in which the client resides) and fiscal group size. BEM 135, p. 2; BEM 544, p. 1; RFT 240, p. 1.

At the hearing, the Department testified that Petitioner's children's MA eligibility under the G2U program was not determined. The Department stated that Petitioner did not respond to a verification request made in 2021 regarding Petitioner's foreign based income. The Department conceded that a recent verification request regarding the income was not made.

Verification is usually required at application/redetermination and for a reported change affecting eligibility or benefit level. BAM 130 (April 2017), p. 1. To request verification of information, the Department sends a verification checklist (VCL) which tells the client what verification is required, how to obtain it, and the due date. BAM 130, p. 3. For MA cases, the Department allows the client 10 calendar days (or other time limit specified in

policy) to provide the verification that is required. BAM 130 (April 2017), p. 7. If the client cannot provide the verification despite a reasonable effort, the Department will extend the time limit up to two times. BAM 130, p. 8. The Department sends a negative action notice when: the client indicates a refusal to provide a verification OR the time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130, p. 7.

The Department did not properly follow policy when requesting verification of Petitioner's income, as a recent verification request was not made. Therefore, the Department did not act in accordance with policy when it closed Petitioner's children's MA benefit cases.

DECISION AND ORDER

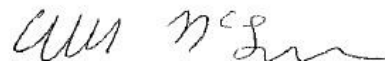
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it closed Petitioner's children's MA benefit cases.

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 children's MA benefit eligibility as of November 1, 2023, ongoing;
2. If Petitioner's children are eligible for MA benefits, provide coverage they are entitled to receive; and
3. Notify Petitioner of its decision in writing.

EM/tm



Ellen McLemore
Administrative Law Judge

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

Via-Electronic Mail :

DHHS
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Via-First Class Mail :

Petitioner
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