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GOVERNOR

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

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ACTING DIRECTOR

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

Date Mailed: February 6, 2024
MOAHR Docket No.: 23-008122
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 31, 2024, via conference line. Petitioner was present and was unrepresented. The Department of Health and Human Services (Department) was represented by Megan Iatonna, Hearing Facilitator.

ISSUE

Did the Department properly determine Petitioner's children's Medical Assistance (MA) 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's children were ongoing MA recipients.
2. On September 19, 2023, Petitioner completed a redetermination related to his children's MA benefit cases (Exhibit A, pp. 8-12).
3. Petitioner's household consisted of himself, his wife and his two minor children.
4. Petitioner had income from employment (Exhibit A, pp. 13-14).
5. Petitioner's wife had income from employment (Exhibit A, pp. 15-18).

6. On November 17, 2023, the Department sent Petitioner a Health Care Coverage Determination Notice informing him that his children were approved for MA benefits subject to a monthly deductible of \$3,803 (Exhibit a, pp. 25-30).
7. Petitioner submitted a request for hearing disputing the Department's actions.

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 recipients under the full coverage Under Age 19 (U19) MA program. Petitioner completed a redetermination related to his children's MA benefit cases in September 2023. As a result, the Department redetermined Petitioner's children's MA eligibility. The Department testified that based on Petitioner's children's household income, they were only eligible for MA benefits subject to a monthly deductible.

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 (October 2023), p. 1, 3-4; BEM 130 (July 2021), p. 1; BEM 131 (January 2022), 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 (January 2020), 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, 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 children live with their parents who claim them as a dependent. Therefore, the children have a household size of four. See BEM 211 (October 2023), pp. 1-2. 217% of the annual 2023 FPL for MICHild, which has the highest income threshold, for a four-member household is \$65,100, or \$5,425 per month, when the 5% disregard is applied.

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 any money the employer takes out for health coverage, child care, or retirement savings. This figure is multiplied by the number of paychecks the client expects in 2023 to estimate income for the year. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>.

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 presented Petitioner's pay statements showing he is paid \$[REDACTED] in gross income on a biweekly basis. Petitioner did not have any pretax withholdings. Therefore, Petitioner's MAGI based income is \$[REDACTED] per month. The Department also presented Petitioner's wife's pay statements showing she was paid on September 1, 2023, in the gross amount of \$[REDACTED] on September 8, 2023, in the gross amount of \$[REDACTED]; on September 15, 2023, in the gross amount of \$[REDACTED]; and on September 22, 2023, in the gross amount of \$[REDACTED]. Petitioner's wife also did not have any pretax withholdings. Petitioner's wife's total countable household income was \$[REDACTED]. The monthly total household income is \$[REDACTED], which exceeds the income limit for a group size of four under the MiChild MA program.

When calculating MAGI 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/>.

At the hearing, Petitioner argued that his wife's income fluctuates. However, upon review of Petitioner's wife's year-to-date income as of the September 22, 2023 paycheck, she had earned \$[REDACTED]. When dividing Petitioner's wife's year-to-date income by the 9 months that had lapsed in the year, it results in a monthly income of \$[REDACTED], which is greater than the income amount utilized by the Department. Therefore, the Department acted in accordance with policy when it determined that Petitioner's children were not eligible under the full-coverage MA programs.

The Department determined that Petitioner's children were eligible for MA benefits under the G2U 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 (July 2013), p. 1; RFT 240 (December 2013), p. 1.

For purposes of Group 2 MA eligibility, a child's fiscal group is the child and the child's parents. BEM 211 (October 2023), p. 8. Therefore, each of Petitioner's children have a group size of three. Because the children live in Macomb County, and their group size is 3, their PIL is \$567 each. RFT 200 (December 2013); RFT 240, p. 1. Thus, if the

household's net income, calculated in accordance with BEM 536 (January 2014), pp. 1-7, exceeds \$567, Petitioner's children are eligible for MA assistance under the deductible program, with the deductible equal to the amount that the group's monthly income exceeds \$567.

Net income is reduced by allowable needs deductions for guardianship/conservator expenses, a standard work expense of \$90, \$30 plus 1/3 disregard for individuals with earnings who received FIP in the previous year, dependent care expenses, child support expenses. BEM 536, pp. 1-3. As stated above, Petitioner's countable income was \$[REDACTED] and his wife's countable income was \$[REDACTED]. The evidence presented showed that the group is only eligible for a \$90 earned income deduction.

The budget shows that Petitioner's prorated income is \$[REDACTED], and Petitioner's wife's prorated income is \$[REDACTED]. An adult's prorated income is determined by dividing monthly budgetable income, calculated in accordance with BEM 536, pp. 1-4, by the adult's applicable prorate divisor, which is the sum of 2.9 and the number of dependents living with the adult. BEM 536, p. 4. For purposes of determining the prorate divisor, dependent means the adult's spouse and unmarried children under age 18. BEM 536, p. 4.

In this case, Petitioner and his wife are married, and they live with their two minor children. Therefore, Petitioner and his wife each have three dependents and their prorate divisor is 2.9 plus three, or 5.9. Petitioner's gross income of \$[REDACTED], subtracted by the \$90 earned income disregard divided by 5.9, results in a prorated income of \$[REDACTED]. Petitioner's wife's gross income of \$[REDACTED] divided by the 5.9 prorate divisor, results in a prorated income of \$[REDACTED]. Therefore, the Department correctly determined Petitioner's and Petitioner's wife's prorated income.

For MA purposes, the fiscal group's net income for the child is calculated by adding 2.9 prorated shares of the child's own income, if the child has dependents, plus for each parent of the fiscal group, 3.9 prorated shares of the parent's own income, plus one prorated share of each of the parent's own income when (i) both of the child's parents are in the fiscal group and (ii) the parents are married to each other. BEM 535, p. 6.

Neither of Petitioner's children had their own income. Petitioner's pro-rated income ([REDACTED]) multiplied by 3.9 is \$[REDACTED]. Petitioner's wife's prorated income (\$[REDACTED]) multiplied by 3.9 to is \$[REDACTED]. Each spouse's share of their income (\$[REDACTED]) is added with the couple's share of each other's income (which is the same as Petitioner's and Petitioner's wife's prorated income of \$[REDACTED] plus \$[REDACTED] or \$[REDACTED]) to determine the total net income. BEM 536, pp. 6-7. The total net income, Petitioner's prorated income (\$[REDACTED]), plus Petitioner's wife's prorated income (\$[REDACTED]), plus the couple's own share (\$[REDACTED]), results in a net income of \$[REDACTED].

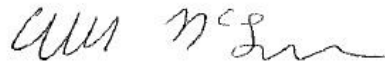
Net income is reduced by allowable needs deductions for health insurance premiums (which includes Medicare premiums paid by the household), remedial services for individuals in adult foster care home or home for the aged and cost of living adjustments

(COLA) (for January through March only). BEM 544, pp. 1-2. There was no evidence that a remedial service allowance, COLA exclusion or health insurance premium deductions should be applied to Petitioner's children's case.

The household net income of \$██████ reduced by the \$██████ PIL is \$██████. Therefore, the Department acted in accordance with policy when it determined Petitioner's children were eligible for MA benefits subject to a monthly deductible of \$3,803.

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 acted in accordance with Department policy when it determined Petitioner's children's MA eligibility. Accordingly, the Department's decision is **AFFIRMED**.



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 :

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Interested Parties

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Via-First Class Mail :

Petitioner

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