



GRETCHEN WHITMER  
GOVERNOR

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

MARLON I. BROWN, DPA  
DIRECTOR

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Date Mailed: April 19, 2024  
MOAHR Docket No.: 24-000620  
Agency No.: ██████████  
Petitioner: ██████ ██████

**ADMINISTRATIVE LAW JUDGE: Colleen Lack**

**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 March 20, 2024, from Lansing, Michigan. ██████ ██████ the Petitioner appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Patricia Marx, Family Independence Manager (FIM). Matthew Pomeroy, Eligibility Specialist, was present as an observer.

During the hearing proceeding, the Department’s Hearing Summary packet was admitted as Exhibit A, pp. 1-94; a copy of the budget was admitted as Exhibit B, p. 1; and Petitioner’s additional documentation was admitted as Exhibit 1, pp. 1-3.

**ISSUE**

Did the Department properly determine (MA) eligibility for Petitioner’s son?

**FINDINGS OF FACT**

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. On December ██████ 2023, Petitioner submitted a Redetermination for the MA case. The listed household members were Petitioner, Petitioner’s husband, and Petitioner’s son (date of birth August ██████ 2006). It was reported that Petitioner had income from employment working 40 hours per week at \$████████ per hour, Petitioner’s husband had income from employment working 37 hours per week at \$████████ per hour, and Petitioner’s son has income from RSDI benefits of \$████████ per month. (Exhibit A, pp. 37-41)

2. On December █ 2023, Petitioner submitted verification of banking accounts, utility expenses, vehicle payments, and medical insurance. (Exhibit A, pp. 42-94)
3. The Department determined that Petitioner's son was eligible for MA with a monthly deductible. (Exhibit B, p. 1)
4. On January █ 2024, a Health Care Coverage Determination Notice was issued to Petitioner stating her son would have a monthly deductible of \$█ for his MA coverage effective February 1, 2024. (Exhibit A, pp. 28-34)
5. On January 25, 2024, Petitioner filed a hearing request contesting the Department's determination. (Exhibit A, pp. 1-34)

### **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.

The Medicaid program comprise several sub-programs or categories. BEM 105, January 1, 2024, p. 1.

To receive MA under an SSI-related category, the person must be aged (65 or older), blind, disabled, entitled to Medicare or formerly blind or disabled. Medicaid eligibility for children under 19, parents or caretakers of children, pregnant or recently pregnant women, former foster children, MOMS, MICHild, Flint Water Group and Healthy Michigan Plan is based on Modified Adjusted Gross Income (MAGI) methodology. BEM 105, January 1, 2024, p. 1.

In general, the terms Group 1 and Group 2 relate to financial eligibility factors. For Group 1, net income (countable income minus allowable income deductions) must be at or below a certain income limit for eligibility to exist. The income limit, which varies by category, is for nonmedical needs such as food and shelter. Medical expenses are not used when determining eligibility for MAGI-related and SSI-related Group 1 categories. For Group 2, eligibility is possible even when net income exceeds the income limit. This is because incurred medical expenses are used when determining eligibility for Group 2 categories.

Group 2 categories are considered a limited benefit as a deductible is possible. BEM 105, January 1, 2024, p. 1.

Medicaid eligibility is determined on a calendar month basis. Unless policy specifies otherwise, circumstances that existed, or are expected to exist, during the calendar month being tested are used to determine eligibility for that month. When determining eligibility for a future month, assume circumstances as of the processing date will continue unchanged unless you have information that indicates otherwise. BEM 105, January 1, 2024, p. 2. This is consistent with 42 CFR § 435.603(h), which states that financial eligibility for Medicaid for applicants must be based on current monthly household income and family size.

Other Healthy Kids (OHK) and the Healthy Kids Expansion (HKE) are two programs in the MAGI U-19 Medicaid category. OHK and HKE are available to children under the age of 19 whose household income does not exceed 160 percent of the Federal Poverty Level (FPL). Both programs are defined by age, household income, and whether the child has other comprehensive insurance. The MAGI U-19 income limits for Other Healthy Kids and the Healthy Kids Expansion are:

Program	Age	Income (% of FPL)	Has other comprehensive insurance?
MAGI U-19 OHK	>=1 and <=5	>54% and <144%	N/A
	>=1 and <=5	>=144% and <=160%	Yes
	>=6 and <=18	>54% and <110%	N/A
	>=6 and <=18	>=110% and <=160%	Yes
MAGI U-19 HKE	>=1 and <=5	>=144% and <=160%	No
	>=6 and <=18	>=110% and <=160%	No

BEM 131, January 1, 2022, p. 1.

Group 2 Under 21 is a non-MAGI MA category. BEM 105, January 1, 2024, p. 2. Medicaid is available to a person who is under age 21 and meets the eligibility factors in this item. All eligibility factors must be met in the calendar month being tested. BEM 132, April 1, 2018, pp. 1-2. Income eligibility exists when net income does not exceed the Group 2 needs in BEM 544. Apply the Medicaid policies in BEM 500, 530 and 536 to determine net income. If the net income exceeds Group 2 needs, Medicaid eligibility is still possible. See BEM 545. BEM 132, April 1, 2018, p. 2.

For the Group 2 Under 21 category, a fiscal group is established for each person requesting MA and budgetable income is determined for each fiscal group member. Since how a client's income must be considered may differ among family members, special rules are used to prorate a person's income among the person's dependents, and themselves. BEM 536 July 1, 2019, p. 1. The BEM 536 policy outlines the 16 step process to determine a fiscal group member's income. BEM 536, July 1, 2019, pp. 1-7.

When determining Group 2 needs, the Department utilizes a protected income level (PIL) is a set allowance for non-medical need items such as shelter, food and incidental expenses. RFT 240 lists the Group 2 MA PILs based on shelter area and fiscal group size. RFT 200 lists the counties in each shelter area. BEM 544, January 1, 2020, p. 1. Benzie county is part of shelter area III. RFT 200, April 1, 2017, p. 3. In shelter area III, for a group size of 2 the PIL is \$475.00. RFT 240, December 1, 2013, p. 1.

Deductible is a process which allows a client with excess income to become eligible for Group 2 MA if sufficient allowable medical expenses are incurred. Each calendar month is a separate deductible period. The fiscal group's monthly excess income is called a deductible amount. Meeting a deductible means reporting and verifying allowable medical expenses that equal or exceed the deductible amount for the calendar month tested. BEM 545, July 1, 2022, p. 10-12

The Department counts the gross benefit amount of SSA issued RSDI benefits as unearned income when determining eligibility. BEM 503, January 1, 2023, p. 29. The Department counts the gross wage amount as earned income. BEM 501, January 1, 2024, p. 7.

In this case, the Department explained that Petitioner's son was no longer eligible for MA under the Other Healthy Kids category because the household income exceeded the limit for this category. However, Petitioner's son was potentially eligible for MA under the Group 2 Under 21 MA Category. The fiscal group's income exceeded the limit for full coverage under the Group 2 Under 21 MA Category. Accordingly, the Department determined that Petitioner would have a monthly deductible of \$[REDACTED]. As indicated in the above cited BEM 536 policy, budgetable income is determined for each fiscal group member. Special rules are used to prorate a person's income among the person's dependents, and themselves. The Department provided the MA budget showing how the prorated income was utilized to determine the deductible amount. (Exhibit B, p.1. FIM Testimony).

Petitioner explained that they cannot afford the deductible amount. They are stuck and do not know what to do as this will leave her son without coverage, and all the treatment and services he was receiving. (Exhibit A, pp. 1-27; Exhibit 1, pp. 1-3; Petitioner Testimony).

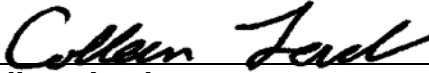
This Administrative Law Judge has no authority to change or make any exceptions to the applicable regulations and policy, which require a monthly deductible when there is excess income. Overall, the evidence establishes that the Department properly determined Petitioner's eligibility for MA based upon the available information.

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 son's eligibility for MA.

**DECISION AND ORDER**

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

CL/dm

  
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**Colleen Lack**  
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**  
Shannon Louisignau  
Benzie County DHHS  
**MDHHS-Benzie-**  
**Hearings@michigan.gov**

**SchaeferM**

**EQADHearings**

**BSC2HearingDecisions**

**MOAHR**

**Via-First Class Mail :**

**Petitioner**

[REDACTED]

[REDACTED]

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