



STATE OF MICHIGAN

GRETCHEN WHITMER  
GOVERNOR

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

MARLON I. BROWN, DPA  
ACTING DIRECTOR



Date Mailed: April 9, 2024  
MOAHR Docket No.: 24-002220  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Caralyce M. Lassner**

### **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 hearing was held by telephone on April 3, 2024. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Roche Blanchard, Benefits Worker.

### **ISSUE**

Did the Department properly determine Petitioner's child's Medicaid (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. On [REDACTED] 2024, Petitioner applied for MA for his minor child, [REDACTED] (Child), who was 11 years old. (Exhibit A, pp. 1, 12 – 18).
2. Petitioner's household included himself, his wife (Wife), and Child. (Exhibit A, p. 13).
3. Petitioner and Wife each had earned income, and the household had no other earned or unearned income. (Exhibit A, pp. 16, 19 – 20).
4. Petitioner resided in [REDACTED] County and maintained and paid health insurance premiums for Petitioner, Wife, and Child. (Exhibit A, pp. 6, 10, 12, 16, 31).

5. On February 5, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (Notice) and denied MA coverage for Child based on excess income. The Notice stated Child's annual income was [REDACTED]. (Exhibit A, pp. 21 – 22).
6. On February 26, 2024, the Department received Petitioner's request for hearing in which Petitioner disputed the Department's denial of MA for Child. (Exhibit A, pp. 4 – 10).
7. On March 8, 2024, the Department reviewed Petitioner's case, discovered an error as to Child's income, and issued a new Notice approving Child for Group 2 Under 21 (G2U) coverage subject to a deductible of \$11,246 per month. (Exhibit A, pp. 1, 25 – 27, 31).
8. At the hearing, Petitioner verbally amended his request for hearing, disputing the Department's determination as to the amount of Child's deductible, and the Department acknowledged that it was prepared to address Petitioner's issue as amended.

### **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.

Petitioner disputed the Department's determination as to the amount of Child's monthly deductible under the G2U MA program.

Under federal law, an individual is entitled to the most beneficial category, which is the one that results in a) eligibility, b) the least amount of excess income, or c) the lowest cost share. BEM 105 (January 2024), p. 2. Children over age 1 and under age 19, and 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, p. 1, 3-4; BEM 130 (January 2024), 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 but is also limited to children who are not enrolled in comprehensive health insurance. BEM 130, pp. 1 – 2.

An individual's group size for MAGI purposes requires consideration of the client's tax filing status. The household for an individual under the age of 19 (or under 21 if a full time student) and who expects to be claimed by one parent as a tax dependent and is living with both parents, but the parents do not expect to file a joint tax return, is considered a non-filer/non-dependent. BEM 211 (October 2023), p. 2. In that case, the household for a non-tax filer consists of the individual and, if the individual is under the age of 19 (or under 21 if a full time student), and includes the individual's parents and siblings under the age of 19 (or under 21 if a full time student) if they are living with the individual. BEM 211, p. 2. In this case, Petitioner filed taxes separately from Wife, and claimed Child as a dependent, and all three reside together. (Exhibit A, p. 14). Therefore, for U19 and MiChild purposes, Child has a household size of three. BEM 211, pp. 1 – 2.

In order to determine income eligibility for MAGI-related U19 and MiChild programs, the household's MAGI income must be considered. 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. The household income is then compared to the Federal Poverty Limit (FPL) for the applicable family size. The annual FPL for a family of three in 2024 is ██████████ 212% of the FPL, which is the income limit applicable to MiChild eligibility and higher than the income limit for U19 eligibility, for a family of three is ██████████. If necessary, in order to find one eligible for MA, a 5% disregard is applied to the income limit, which is 5% of the FPL for the applicable family size. BEM 500 (April 2022), p. 5; 42 CFR 435.603(d)(1).

Petitioner agreed with the amounts the Department used to determine his and Wife's earned income. Specifically, Petitioner testified he earns ██████████ bi-weekly and Wife earns ██████████ bi-weekly. Neither Petitioner's nor Wife's paystubs reflect any pre-tax withholdings that would be considered in calculation of income in accordance with MAGI. (Exhibit A, pp. 19 – 20). See 42 CFR 435.603(e); BEM 500 (April 2022), pp. 3 – 4. For MA purposes, Petitioner and Wife's gross monthly earned income is ██████████ which annualizes to ██████████. Therefore, under MAGI calculations, Petitioner's household's countable income greatly exceeds the income limits of both the U19 or MiChild programs. Additionally, Petitioner testified that he maintains health insurance for Child, an additional factor that prevents Child from being eligible for the MiChild program. Based on the foregoing, the Department properly determined Child is ineligible for full-coverage MAGI-related MA under U19 or MiChild.

The Department determined Child was eligible for non-MAGI MA benefits under the G2U program. G2U is a Group 2 MA program for individuals under the age of 21 whose fiscal group's income exceeds the income limit for U19 or MiChild eligibility and provides for MA coverage subject to a monthly deductible when the group has excess income.

BEM 132. Excess income exists when the child's net income exceeds the applicable Group 2 MA protected income level (PIL) set forth in RFT 240. BEM 545 (July 2022), p. 1; see also RFT 240 (December 2013). The PIL 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.

For purposes of MA eligibility, a child's fiscal group is the child and the child's parents. BEM 211 (October 2023), p. 8. Therefore, with Petitioner, Wife, and Child being the only members of the household, for purposes of G2U, Child has a group size of three. Because Child lives in ██████ County, and Child's group size is three, Child's PIL is \$567. RFT 200 (April 2017); RFT 240. Thus, if the household's net income, calculated in accordance with BEM 536 (July 2019), exceeds \$567, Child is eligible for MA assistance but is subject to a monthly deductible. BEM 545, pp. 10 – 11. To determine the amount of Child's deductible, the Department must determine Child's net income minus specific expenses based on need. BEM 536; BEM 544; BEM 545. The balance of Child's net income, after these deductions, is the monthly deductible amount.

To determine net income for Group 2 MA deductible amount purposes, the Department begins by reducing the countable earned income of each group member by a) a standard work expense of \$90, b) \$30 plus 1/3 disregard for individuals with earnings who received Family Independence Program (FIP) or Low Income Family (LIF) assistance in at least 1 of the last four calendar months, and c) dependent care expenses arising from employment. BEM 536, pp. 1 – 3. After reducing countable earned income by any of the allowed deductions, that amount is added to any countable child support income and other unearned income of the group member. BEM 536, p. 3. This total is then reduced by court-ordered child support and guardianship/conservator expenses and the result is the group's total net income. BEM 536, p. 3.

As stated previously, Petitioner's countable income was ██████ per month and Wife's was ██████ per month. The evidence presented showed that Petitioner and Wife were each eligible for the \$90 earned income deduction from their countable income and that neither had any other allowable deductions. Therefore, their total net income was reduced to ██████ for Petitioner and ██████ for Wife.

Next, the Department must determine each group member's prorated income. Prorated income is determined by dividing the total net income for each member by that member's applicable prorate divisor. BEM 536, p. 4 – 5. In groups that include parents and their children, the divisor is 2.9 plus the number of dependents living with each group member. BEM 536, p. 4. For purposes of determining the prorate divisor of each group member, dependents are the adult's spouse and unmarried children under age 18. BEM 536, p. 4.

In this case, because Petitioner and Wife reside together, and with Child, they each have 2 dependents, which means they each have an applicable divisor of 4.9 (2.9 + 2 dependents). When each's total net income amount is divided by 4.9, Petitioner's prorated income is ██████ and Wife's prorated income is ██████. These amounts are

consistent with the budget presented by the Department; therefore, the Department properly computed the prorated income amounts. (Exhibit A, p. 31).

Once the Department has determined each group member's prorated income amount, it is able to determine the child's total net income. To do so, the Department must add together a) the child's net income, b) the sum of 3.9 times the prorated income amount ("share") of each parent, and c), when both of the child's parents are in the group and married to each other, one additional share of each parent's income. BEM 536, p 6. The resulting amount is the child's total net income.

In this case, Child had no income of his own. 3.9 shares of Petitioner's income equaled [REDACTED] and 3.9 shares of Wife's income equaled [REDACTED]. One share of Petitioner's income and one share of Wife's income, added together, equaled [REDACTED]. These amounts are consistent with the amounts determined by the Department and therefore, the Department properly computed the countable shares of income used in its calculation. (Exhibit A, p. 31).

Once the countable shares of income are determined, that amount is totaled and then reduced by health insurance premiums paid by the group, expenses for remedial services as defined in BEM 544, and the group's PIL. BEM 544, pp. 1- 4. The amount remaining, after deduction of these specific items, is the monthly G2U deductible amount.

In this case, the total of countable shares of income equaled [REDACTED]. Petitioner provided proof to the Department that the group pays a health insurance premium of \$1,546.02 per month. (Exhibit A, p. 10). No evidence was introduced at hearing indicating a deduction for remedial services was appropriate and the Department did not include one. And, as set forth previously herein, the group's PIL was \$567. While the Department reduced the total countable share amount by the group's PIL, it did not include a reduction for the group's health insurance premium. The Department testified that it could not explain why its calculation did not reflect a reduction for the group's health insurance premium. Therefore, while the Department properly deducted the group's PIL, it did not act in accordance with policy when it failed to reduce fiscal group's total net income by the amount of the group's health insurance premium. Thus, the Department did not properly determine Child's G2U deductible.

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 failed to deduct Petitioner's health insurance premiums when determining Child's G2U deductible.

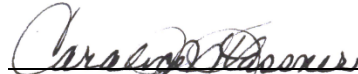
**DECISION AND ORDER**

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 G2U deductible amount for Child effective January 1, 2024 ongoing; and
2. Notify Petitioner of its decision in writing.

CML/ml

  
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**Caralyce M. Lassner**  
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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**Interested Parties**

BSC4

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**Via First Class Mail:**

**Petitioner**

[REDACTED]  
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[REDACTED]  
MI [REDACTED]