



GRETCHEN WHITMER
GOVERNOR

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

MARLON BROWN
DIRECTOR

██████████
██████████████████
██

Date Mailed: May 31, 2024
MOAHR Docket No.: 24-003695
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 May 2, 2024, from Lansing, Michigan. █████ █████ the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Lianne Scupholm, Hearing Facilitator.

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-26.

ISSUE

Did the Department properly determine Petitioner's eligibility for Medical Assistance (MA)?

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 January █████ 2023, Petitioner submitted a Redetermination for the MA case. It was reported that Petitioner had income from employment at █████ 30 hours per week and \$██████ every two weeks. It was reported that Petitioner's husband had income from employment with █████ █████ █████ 51 hours per week, \$██████ per month average commission. (Exhibit A, pp. 3-9)
2. Verification of income was obtained and showed higher gross income than what Petitioner reported on the application. Petitioner's spouse had gross earnings of

\$██████ in January 2024. Petitioner had two paychecks in February 2024 with gross earnings of \$██████ and \$██████ (Exhibit A, pp. 17-21)

3. On March █ 2024, a Health Care Coverage Determination Notice was issued to Petitioner stating effective April 1, 2024, MA was approved for Petitioner with a monthly deductible of \$██████ and for Petitioner's daughter with a monthly deductible of \$██████ (Exhibit A, pp. 12-16)
4. On March 25, 2024, Petitioner filed a hearing request contesting the Department's determination. (Exhibit A, unnumbered pages)

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
MAGI U-19 HKE	>=6 and <=18	>=110% and <=160%	Yes
	>=1 and <=5	>=144% and <=160%	No
	>=6 and <=18	>=110% and <=160%	No

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

MiChild is a MAGI-related Medicaid Expansion program for children who are under 19 years of age and who are not enrolled in comprehensive health insurance. Children who get enrolled in comprehensive health insurance during their 12 continuous month eligibility period, cannot be closed until redetermination, with limited exceptions. Other eligibility criteria for MiChild the same as Children under 19 (U19) with the exception that MiChild beneficiaries are responsible for making monthly premium payments; see premiums in this item. Income eligibility for Age one to age 19 is 161 percent to 212 percent of the FPL. BEM 130, January 1, 2024, p. 1.

Healthy Michigan Plan (MA-HMP) is based on Modified Adjusted Gross Income (MAGI) methodology. The MA-HMP provides health care coverage for individuals who: are 19-64 years of age; do not qualify for or are not enrolled in Medicare; do not qualify for or are not enrolled in other Medicaid programs; are not pregnant at the time of application; meet Michigan residency requirements; meet Medicaid citizenship requirements; and have income at or below 133 percent Federal Poverty Level (FPL). BEM 137, January 1, 2024, p. 1

MA is available to parents and other caretaker relatives who meet the eligibility factors under the Group 2 Caretaker Relative (MA-G2C) category. Citizenship/alien status is one of the eligibility factors that must be met. BEM 135, October 1, 2015, p. 1. 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 135, October 1, 2015, p. 2.

For the G2C 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.

Group 2 persons under age 21 MA is available to a person who is under age 21 and meets the eligibility factors. 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, pp. 1-2.

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. BEM 544, January 1, 2020, p. 1. 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. Calhoun county is part of shelter area IV. RFT 200, April 1, 2017, p. 3. In shelter area IV, for a group size of 3 the PIL is \$532.00. 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 wage amount as earned income. BEM 501, January 1, 2024, p. 7.

On January [REDACTED] 2023, Petitioner submitted a Redetermination for the MA case. It was reported that Petitioner had income from employment at [REDACTED] 30 hours per week and \$[REDACTED] every two weeks. It was reported that Petitioner's husband had income from employment with [REDACTED] [REDACTED] 51 hours per week, \$[REDACTED] per month average commission. (Exhibit A, pp. 3-9).

Verification of income was obtained and showed the recent gross income was higher than what Petitioner reported on the application. Petitioner's spouse had gross earnings of \$[REDACTED] in January 2024. Petitioner had two paychecks in February 2024 with gross

earnings of \$ [REDACTED] and \$ [REDACTED] (Exhibit A, pp. 17-21). The Department determined that Petitioner and her daughter exceeded the income limits for the full MA categories there were potentially eligible for, but they would be eligible for MA with monthly deductible. On March [REDACTED] 2024, a Health Care Coverage Determination Notice was issued to Petitioner stating effective April 1, 2024, MA was approved for Petitioner with a monthly deductible of \$ [REDACTED] and for Petitioner's daughter with a monthly deductible of \$ [REDACTED] (Exhibit A, pp. 12-16).

Petitioner testified that her husband is only paid off commission and the amount fluctuates. Further, Petitioner has had to reduce her hours and now only works two days per week. (Petitioner Testimony). As discussed during the hearing, Petitioner's MA case closed at her request after the hearing request was filed. Petitioner may wish to reapply for MA and provide verification of the current household income.

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 at the time of the March [REDACTED] 2024 determination.

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 eligibility for MA based upon the available information at the time of the March [REDACTED] 2024 determination.

DECISION AND ORDER

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

CL/dm



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
Kristina Etheridge
Calhoun County DHHS
**MDHHS-Calhoun-
Hearings@michigan.gov**

SchaeferM

EQADHearings

BSC3HearingDecisions

MOAHR

Via-First Class Mail :

Petitioner
[REDACTED]
[REDACTED]
[REDACTED]