



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
DIRECTOR

[REDACTED], MI [REDACTED]

Date Mailed: July 15, 2024
MOAHR Docket No.: 24-003846
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 June 17, 2024. Petitioner's husband, [REDACTED] [REDACTED] (Husband) appeared and represented Petitioner. The Department of Health and Human Services (Department) was represented by Priya Johnson, Assistance Payments Supervisor.

ISSUE

Did the Department properly determine Petitioner's minor children's eligibility for Medicaid (MA) coverage?

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 February 28, 2024, the Department received a completed MA redetermination application from Petitioner for her minor children, [REDACTED] year old [REDACTED] (VM) and [REDACTED] year old [REDACTED] (DM). (Exhibit B, pp. 2 – 8).
2. Petitioner's household included herself, Husband, and VM and DM. (Exhibit B, p. 3).
3. Petitioner reported the household income to be from employment and self-employment and that the income did not change from month to month but did not provide any additional information. (Exhibit B, pp. 4, 8).

4. Petitioner reported that no one in the household planned to file a federal income tax return and that no one would be claimed as dependent on anyone else's tax return. (Exhibit B, p. 7).
5. Petitioner reported Husband pays \$555.26 per month for health insurance premiums for Petitioner and Husband (Exhibit B, pp. 4, 6).
6. On March 8, 2024, the Department obtained income information for Husband's employment from the Work Number by Equifax, which reflected that Husband is paid hourly and on a bi-weekly basis. (Exhibit A, pp. 6 – 10).
7. The Department did not obtain income information regarding the household's reported self-employment income.
8. On March 8, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) that approved VM and DM for Group 2 Persons Under Age 21 (G2U) MA, subject to a monthly deductible of \$6,248 each, effective April 1, 2024 ongoing. (Exhibit A, pp. 11 – 18).
9. On March 27, 2024, the Department received Petitioner's request for hearing, disputing the amount of the deductible for each child. (Exhibit A, pp. 3 – 5).

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 monthly deductible for each child, VM and DM, 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 limited to children who are not enrolled in comprehensive health insurance. BEM 130, pp. 1 – 2. G2U is a non-MAGI MA category 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.

An individual's group size for MAGI purposes requires consideration of the client's tax filing status. The fiscal group for an individual under the age of 19 (or under 21 if a full time student) and who will not be claimed as a tax dependent, and who is living with both parents, but the parents do not expect to file a tax return, consists of the individual, the individual's parents, and the individual's siblings under the age of 19 (or under 21 if a full time student) if the siblings are living with the individual. BEM 211 (October 2023), pp. 1 – 2; BEM 132, p. 2. In this case, Petitioner reported that she, Husband, and both VM and DM reside together; and that no one would be filing a federal tax return or be claimed as a dependent on anyone else's tax return. (Exhibit B, pp. 3, 7). Therefore, for U19 and MiChild, VM and DM each have a fiscal group of four. 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 four in 2024 is \$31,200. 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 four is \$66,144. If necessary, in order to find one eligible for MA, an additional 5% is added to the FPL for the applicable family size. BEM 500 (April 2022), p. 5; 42 CFR 435.603(d)(1). An additional 5% would increase the income limit for a family of four for MiChild to \$67,704.

To determine Petitioner's MAGI-income, the Department must calculate the countable income of the fiscal group. BEM 500, p. 1. To determine financial eligibility for MAGI-related MA, income must be calculated in accordance with MAGI under federal tax law. 42 CFR 435.603(e); BEM 500, p. 3. MAGI is based on Internal Revenue Service rules and relies on federal tax information. BEM 500, p. 3. To determine income in accordance with MAGI, a client's tax-exempt foreign income, tax-exempt Social Security benefits, and tax-exempt interest, if any, are added to the client's adjusted gross income (AGI) from the client's tax return. AGI is found on line 11 of IRS tax forms 1040, 1040-SR, and 1040-NR.

Alternatively, MAGI-income 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. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>. The Department determines MAGI-related MA eligibility based on current monthly income and reasonably predictable changes in income. (MAGI-Based Income Methodologies (SPA 17-0100), eff. 11/01/2017, app. 03/13/2018)¹; 42 CFR 435.603(h).

In this case, the Department testified that it considered Husband’s bi-weekly gross earnings from the Work Number for February 1, 2024 in the amount of \$ [REDACTED] February 15, 2024 in the amount of \$ [REDACTED] and February 29, 2024 in the amount of \$ [REDACTED] (Exhibit A, p. 8). When these amounts are added together and divided by three to determine the current bi-weekly average, the amount is \$3,150.54. To determine current monthly income, the bi-weekly average is multiplied by two, which in this case equals \$ [REDACTED] \$6,301 (dropping cents) annualizes to \$ [REDACTED] Because Husband’s income alone, without Petitioner’s self-employment income, exceeds the MiChild income limit of \$67,704, which includes the 5% increase of the FPL allowed by policy when necessary, the Department properly determined VM and DM were ineligible for U19 and MiChild MA.

Even though VM and DM are not eligible for full-coverage MA due to excess income, they are potentially eligible for MA coverage under the G2U program. For G2U, income eligibility exists when net income, calculated in accordance with BEM 500 and 530, does not exceed the Group 2 needs in BEM 544; and when the net income does exceed the Group 2 needs, a monthly deductible is required. BEM 132, p. 2; BEM 536 (July 2019), p. 1; BEM 545 (July 2022), p. 10. Income from employment and self-employment is countable, though may be reduced by specific deductions allowed by policy. See generally BEM 501 (January 2024); BEM 502 (October 2019).

In this case, the Department based the calculation of the deductible on Husband’s income. However, at the hearing, Husband testified that Petitioner has earned an average of \$2,000 per month in net income from her ownership of a tailor shop and that she has owned her shop for approximately 17 years. The Department did not have Petitioner’s income information at the time it determined VM’s and DM’s MA eligibility even though Petitioner disclosed that she had self-employment income in the redetermination. Because Petitioner’s earned or self-employment income must be considered when determining MA eligibility, the Department could not satisfy its burden that it acted in accordance with Department policy when it determined VM’s and DM’s MA eligibility.

Additionally, Petitioner reported Husband pays \$555.26 per month for health insurance premiums for Petitioner and Husband (Exhibit B, pp. 4, 6). For Group 2 MA, once net

¹ [MAGI-Based Income Methodologies \(SPA 17-0100\) Approved \(michigan.gov\)](#), p. 7.

income has been determined, the calculation of the deductible takes into consideration certain expenses, including any health insurance premiums (including vision and dental insurance) paid by the medical group regardless of who the coverage is for. BEM 544, p. 1. The Department's budget did not reflect that it included a deduction for Petitioner and Husband's health insurance premiums. (Exhibit B, p. 1). Therefore, the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it did not deduct Petitioner and Husband's health insurance premiums when determining VM's and DM's MA eligibility.

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, although the Department properly determined that VM and DM were not eligible for full coverage MA, it failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated the 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. Determine Petitioner's countable income;
2. Redetermine VM's and DM's individual eligibility for MA effective April 1, 2024 ongoing; and
3. Notify Petitioner of its decision in writing.

CML/nr



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
Yaita Turner
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Interested Parties

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Via-First Class Mail :

Authorized Hearing Rep.

[REDACTED]
[REDACTED], MI [REDACTED]

Petitioner

[REDACTED]
[REDACTED], MI [REDACTED]