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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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Date Mailed: June 7, 2024  
MOAHR Docket No.: 24-003884  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: Linda Jordan**

### **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 on May 9, 2024, via teleconference. Petitioner appeared and represented herself. Melissa Stanley, Hearings Facilitator, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department). MDHHS' Hearing Packet was admitted into evidence at the hearing as MDHHS Exhibit A, pp. 1-33.

### **ISSUE**

Did MDHHS properly determine that Petitioner's child was eligible for Medicaid (MA) under the Group 2 Under 21 (G2U) category with a \$4,112.00 monthly deductible?

### **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 is the mother of ██████████ (Minor Child), born ██████████, ██████████ (Exhibit A, p. 8).
2. On ██████████, 2024, Petitioner submitted a MA Redetermination, reporting herself, ██████████ (Partner) and Minor Child as household members (Exhibit A, pp. 7-10).
3. On March 11, 2024, MDHHS sent Petitioner a Health Care Coverage Determination Notice, indicating that Minor Child was approved for full coverage MA from February 1, 2023, to March 31, 2024 (Exhibit A, p. 27). From April 1, 2024 ongoing, Minor Child was approved for MA with a \$4,112.00 monthly deductible (Exhibit A, p. 27).

4. On March 27, 2024, Petitioner filed a Request for a Hearing to dispute MDHHS' determination regarding Minor Child's MA benefits (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).

Medicaid (MA) 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. MDHHS administers MA pursuant to 42 CFR 435, MCL 400.10, and MCL 400.105-.112k. MA is also known as Medical Assistance. BEM 105 (January 2024), p. 1.

In this case, MDHHS determined that Minor Child was eligible for MA under the Group 2 Persons Under 21 (G2U) category with a monthly deductible of \$4,112.00 (Exhibit A, p. 24). Petitioner disputed MDHHS' determination.

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, 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. BEM 130, p. 1. Children whose household income exceeds the income limit for U19 or MiChild eligibility are potentially 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. 3.

For MAGI-related MA programs, group composition follows tax filer and tax dependent rules. BEM 211 (October 2023), p. 1. The household for an individual who is a tax dependent of someone else, consists of: the household of the tax filer claiming the individual as a tax dependent, subject to certain exceptions. *Id.*, p. 2. Potentially relevant here, the individual's group must be considered as non-filer/non-dependent if: the individual is under the age of 19 (or under 21 if a full-time student) and 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. *Id.*

Petitioner reported that Partner was living in the household with Petitioner and Minor Child. Petitioner reported that she was a tax filer and that she was claiming Minor Child as a dependent (Exhibit A, p. 12). She also reported that she was not filing jointly with a spouse (Exhibit A, p. 12). Based on the record, Partner is the father to Minor Child. No evidence was presented that Petitioner and Partner were married or were planning on filing a joint tax return.

Under these facts, Minor Child's fiscal group would be treated as a non-tax filer who is not claimed as a dependent. For non-tax filers/non-dependents, if the individual is under the age of 19 (or under 21 if a full-time student), the group consists of individual's natural, adopted and stepparents and natural, adoptive and step siblings under the age of 19 (or under 21 if a full-time student). Additionally, for G2U the fiscal group consists of the child and child's parents. BEM 211, p. 8. Thus, whether considering Minor Child's eligibility under MAGI rules or for G2U, Minor Child has a group-size of three that includes Minor Child, Petitioner and Partner.

Minor Child was previously receiving full-coverage MA. After MDHHS added Partner to Minor Child's group and included his income, it determined that she was no longer eligible for a full-coverage MAGI-related category due to excess income.

In order to determine income eligibility for MAGI-related U19 and MChild programs, the household's MAGI income must be considered. In determining income in accordance with MAGI, a client's adjusted gross income (AGI) is added to any tax-exempt foreign income, tax-exempt 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, childcare, or retirement savings.

See <https://www.healthcare.gov/income-and-household-information/how-to-report/>. For income from self-employment, MAGI-related MA uses adjusted gross income as declared on the federal tax return. BEM 502 (October 2019), p. 3.

Petitioner reported that Partner is a "1099 employee," and that he earns \$ [REDACTED] every two months (Exhibit A, p. 9). MDHHS determined that Partner was earning [REDACTED] per month (Exhibit A, p. 1). However, it is unclear how this amount was calculated. Documents regarding Partner's pay were admitted showing that he earned \$ [REDACTED] for a one-month period from January 16, 2024, to February 16, 2024 (Exhibit A, pp. 14-16).

If Partner's income is properly determined to be self-employment income, MDHHS should base his pay on his adjusted gross income as declared on his federal tax return. That information was not included in the record, which calls into question whether

MDHHS properly budgeted Partner's income. Additionally, if an eligibility factor is incomplete or unclear, MDHHS is required to attempt to verify the information. BAM 130 (October 2023). There is no evidence that it did so here, by requesting Partner's tax returns or other relevant information that would show his adjusted gross income. An accurate calculation of Partner's income is necessary to determining Minor Child'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 the Department failed to satisfy its burden of showing that it acted in accordance with Department policy when it determined Minor Child's MA eligibility.

### **DECISION AND ORDER**

Accordingly, MDHHS' decision is **REVERSED**. MDHHS 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 Minor Child's MA eligibility, from April 1, 2024 ongoing, requesting additional information, as necessary;
2. Provide Minor Child with the most beneficial category of MA coverage that she is eligible to receive, from April 1, 2024 ongoing; and
3. Notify Petitioner of its decision in writing.



LJ/pt

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**Linda Jordan**  
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**  
Elisa Daly  
Saginaw County DHHS  
411 East Genesee  
Saginaw, MI 48607  
**MDHHS-Saginaw-Hearings@michigan.gov**

**Interested Parties**

BSC2  
M. Schaefer  
EQAD  
MOAHR

**Via-First Class Mail:**

**Petitioner**  
[REDACTED]  
[REDACTED]  
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