



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
DIRECTOR

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Date Mailed: July 3, 2024
MOAHR Docket No.: 24-004224
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: L. Alisyn Crawford

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 June 10, 2024. Petitioner was present at the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Priya Johnson, Assistance Payment Supervisor. Also present was Arabic interpreters, Hadeer (ID # 10213) and Peter Chona.

ISSUE

Did the Department properly determine that Petitioner's son (Child A) was eligible for Medical Assistance (MA) benefits with a 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. On ██████████ 2024, Petitioner applied for MA coverage.
2. Child is ██████ years old. (Exhibit A, p. 6).
3. Child has a medical diagnosis of Autism Spectrum and Attention-Deficit/Hyperactivity Disorder and utilizes an Individualized Educational Plan (IEP). (Exhibit 1, p. 28).
4. Petitioner and her spouse (Spouse) are both employed.
5. On April 1, 2024, the Department denied Petitioner's application for MA coverage due to excess income. (Exhibit A, p. 1).

6. On April 5, 2024, Petitioner requested a hearing disputing the Department denial. (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.

In this case, Petitioner disputes the Department's MA eligibility determination for Child A. Initially, the Department determined that Child A was not eligible for MA due to excess income. Following Petitioner's request for hearing, the Department reviewed the household's income and determined that Child A was eligible for MA under a Group 2 category subject to a monthly deductible of \$6,562 per month.

Children over age one and under age 19 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 (January 2024), pp. 1, 4; BEM 130 (January 2024), p. 1; BEM 131 (January 2022), p. 1; BEM 132 (April 2018), p. 1. The U19 and MiChild programs are Modified Adjusted Gross Income (MAGI)-related Group 1 MA categories, meaning that these categories provide 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. Children whose household income exceeds the income limit for U19 or MiChild eligibility are 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) which exceeds the applicable Group 2 MA protected income level (PIL) 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. 2.

A review of the G2-FIP Related MA Net Income Budget provided by the Department indicates that the Department concluded that Petitioner's child was income-ineligible for full-coverage MA coverage under either the U19 or MiChild categories. (Exhibit B, p. 1). Eligibility for U19 categories is for children under the age of 19 whose household

income does not exceed 160% of the federal poverty level. BEM 131, p. 1. A child age 1 through 18 whose household income is between 161% and 212% of the FPL is income eligible for MiChild. BEM 130, pp. 1-2. Additionally, if an individual's group's income is within 5% of the FPL for the applicable group size, a disregard is applied, making the person eligible for MA.

In order to determine income eligibility for MAGI-related U19 and MiChild programs, the household's MAGI income must be considered. In this case, Child A lives with Petitioner, Spouse, and two siblings. There was no evidence to indicate that Petitioner was a non-tax filer. Thus, it is concluded that Petitioner is a tax-filer who files with Spouse and claims all three children as tax dependents. Therefore, Child A has a household size of five. See 42 CFR 435.603; BEM 211 (October 2023), pp. 1-2. The FPL for a group size of five in 2024 is \$36,580. Therefore, 160% of the annual 2024 FPL for U19 eligibility for a five-person household is \$58,528 (\$4,877 per month), or \$60,357 (\$5,029 per month) when the 5% disregard is applied. 212% of the annual 2024 FPL for MiChild eligibility for a five-member household is \$77,549 (\$6,462 per month), or \$79,378 (\$6,614 per month) when the 5% disregard is applied.

Here, Petitioner, Spouse, and one of Child A's siblings have income. 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, minus an amount equivalent to five percentage points of the FPL for the applicable family size. 42 CFR 435.603(d)(1). However, the MAGI-based income of a child who is included in the household of his or her natural parent and is not expected to be required to file a tax return for the taxable year in which eligibility for MA is being determined is not included in the household income whether or not such tax dependent files a tax return. 42 CFR 435.603(d)(2)(i). Because Child A's sibling is a tax dependent and not expected to file taxes, only Petitioner and Spouse's income are considered in determining Child A's eligibility for U19 and MiChild coverage.

To determine financial eligibility under MAGI-related MA programs, income must be calculated in accordance with MAGI under federal tax law. BEM 500 (October 2022) pp. 3-4. MAGI is based on Internal Revenue Service rules and relies on federal tax information. BEM 500, pp. 3-4. In order to determine income in accordance with MAGI, a client's adjusted gross income (AGI) is added to any tax-exempt foreign income, Social Security benefits, and taxexempt 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.michigan.gov/documents/mdhhs/MAGIBased_Income_Methodologies_SPA_17-0100_-_Submission_615009_7.pdf

Here, Petitioner provided check stubs that the Department used to calculate the household income. Petitioner provided two check stubs dated [REDACTED] 2024 and

██████████ 2024 regarding her employment in the gross amount of \$██████████ and \$██████████, respectively. (Exhibit A, pp. 13-14). Petitioner's check stubs did not show any applicable MAGI deductions. Petitioner's monthly gross income calculates to \$4,364.40 monthly. For Spouse, Petitioner provided one check stub dated ██████████, 2024 for \$2,194.80 and the Department provided a Work Number showing gross pay for a check stub dated ██████████ 2024 in the amount of \$██████████ (Exhibit A, pp. 8-12). A review of the provided check stubs identifies applicable MAGI deductions, and it is unclear whether the Department applied those deductions to Petitioner's MAGI budget. Spouse's check stubs show before tax deductions for health, dental, and vision insurance, as well as retirement savings. (Exhibit A, pp. 8-12). The Department must use the taxable wages, which is the gross amount minus pre-tax deductions, to calculate the household's MAGI-related income. Here, the pre-tax deductions for health, dental, and vision insurance, as well as retirement must be deducted from Spouse's gross monthly income ($\$██████████$ (gross monthly income) - \$418.70 (health) - \$21.62 (dental) - \$14.08 (vision) - \$131.70 (retirement) = \$5,468.74). Spouse's monthly gross income calculates to \$██████████ monthly. Therefore, even when Spouse's income is calculated in accordance with MAGI-methodology, the household's total monthly income of \$9,833.14 exceeds the monthly income limits for both U19 and MiChild eligibility. Thus, the Department properly determined that Child's household income exceeded the income limits for full coverage MA under U19 and MiChild.

While Child has excess income for full MA coverage, he may be eligible under the G2U program, which provides MA coverage subject to a monthly deductible. Group 2 eligibility for MA coverage is possible even when net income exceeds the income limit for full MA coverage. BEM 105 (January 2021), p. 1. For Group 2 categories, there is a monthly deductible equal to the amount the household's monthly net income (countable income minus allowable income deductions) exceeds the applicable Group 2 MA protected income level (PIL). PIL is based on the fiscal group size for Group 2 MA categories and the county of residence. BEM 135, p. 2; BEM 544 (July 2013), p. 1; RFT 240 (December 2013), p. 1.

For purposes of Group 2 MA eligibility, children have a fiscal group composed of the child and the child's parents living with the child, which in this case results in a group size of three. BEM 211 (July 2019), p. 8. The PIL for an individual with a three-person MA Group 2 fiscal group size living in Oakland County is \$567. RFT 200 (April 2017); RFT 240 (December 2013), p. 1. Thus, if the household's net income, calculated in accordance with BEM 536 (July 2019), pp. 1-7, exceeds the \$567 PIL, there is eligibility for MA assistance under the deductible program, with the deductible equal to the amount that the monthly income exceeds \$567.

The G2U net income calculation starts with determining Petitioner's and Spouse's prorated income. Net income is calculated by reducing gross income by allowable needs deductions for guardianship/conservator expenses, a standard work expense of \$90, \$30 plus 1/3 disregard for individuals with earnings who received FIP in the previous year, dependent care expenses, and child support expenses. BEM 536, pp. 1-3.

Based on a review of the G2U budget provided by the Department, it is unclear what income amounts the Department used to determine the prorated income for Petitioner and Spouse as the amounts do not correlate with the income amounts on Petitioner's and Spouse's check stubs and the Work Number. Additionally, the G2U budget does not include any allowable needs deductions for health insurance premiums paid by Spouse.

Based on the foregoing information and evidence, the Department failed to establish that it properly calculated the Petitioner's and Spouse's income. Because the Department failed to establish how it calculated the household income, the Department failed to satisfy its burden of showing that it properly calculated the Child's MA-G2U deductible effective February 1, 2024.

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 the Child's G2U deductible to be \$6,562.

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. Recalculate Child's G2U deductible effective February 1, 2024 ongoing including deductions for health insurance premiums reported on Spouse's check stubs;
2. Provide Child with best available coverage he is eligible for from February 1, 2024 ongoing; and
3. Notify Petitioner of its decision in writing.

LC/ml



L. Alisyn Crawford
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
Oakland County Southfield District III
25620 W. 8 Mile Rd
Southfield, MI 48033
MDHHS-Oakland-6303-Hearings@michigan.gov

Interested Party
BSC4
M Schaefer
EQAD
MOAHR

Via First Class Mail:

Petitioner
[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]