



GRETCHEN WHITMER
GOVERNOR

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

MARLON I. BROWN, DPA
DIRECTOR

EXECUTIVE DIRECTOR



Date Mailed: March 5, 2024
MOAHR Docket No.: 23-009253
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 February 22, 2024, from Detroit, Michigan. Petitioner appeared for the hearing and represented himself. The Department of Health and Human Services (Department) was represented by Marlowe Mason, Eligibility Specialist.

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. Child A was previously a recipient of MA under a full coverage program for newborns. In connection with a redetermination, Child A's MA eligibility was reviewed.
2. Petitioner's household includes himself, his wife, and two minor children.
3. Petitioner has earned income from his employment with the U.S. Postal Services. There was no evidence that the household had any other earned or unearned income.

4. On or around November 16, 2023, the Department sent Petitioner a Health Care Coverage Determination Notice (Notice) advising Petitioner that effective December 1, 2023, Child A was no longer eligible for MA benefits. The Notice informed Petitioner that Child A was ineligible for MA under the MiChild or Under Age 19 MA categories because the household's countable income exceeded the income limit. (Exhibit A, pp. 32-36)
5. The Department asserted that Child A was eligible for MA under a Group 2 category, subject to a monthly deductible of \$3,950. Although the Department testified that Child A's MA coverage under the Group 2 category was effective December 1, 2023, the eligibility summary presented for review indicates that this coverage was not approved until February 1, 2024.
6. The Department failed to present a Health Care Coverage Determination Notice or other eligibility notice sent to Petitioner advising of the change to Group 2 MA coverage with a deductible for his son or the effective date of such action.
7. On or around December 18, 2023, Petitioner requested a hearing disputing the Department's actions.

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 disputed the Department's MA eligibility determination for his son Child A. The Department representative testified that Child A was previously approved for full coverage MA benefits under the newborn category. In connection with a redetermination, MA eligibility for Petitioner's household was reviewed. The Department representative testified that based on the household's income, Child A was now only eligible for MA under a Group 2 category subject to a monthly deductible of \$3,950 per month.

Children over age one and under age 19 are potentially eligible for three programs: (1) the Under Age 19 (U19) program; (2) the MiChild program; and (3) the Group 2 Under 21 (G2U) program. BEM 105 (October 2023), pp. 1, 3-4; BEM 130 (July 2021), 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 November 16, 2023, Notice indicates that the Department concluded that Petitioner's child was income-ineligible for MA coverage under either the U19 or MiChild categories. Eligibility for U19 categories is for children under the age of 19 whose household income does not exceed 160% of the federal poverty level and consists of (1) the Low Income Families (LIF) program (when the household's income does not exceed 54% of FPL); (2) the Other Healthy Kids (OHK) program (for children ages 1 through 5 when the household's income is more than 54% and less than 144% of the FPL or, if the child has other comprehensive insurance, from 144% up to 160% of the FPL and for children ages 6 through 18, when the household's income is more than 54% and less than 110% of the FPL or, if the child has other comprehensive insurance, from 110% to 160% of the FPL); and (3) the Healthy Kids Expansion (HKE) program (for children ages 1 through 5 with no other comprehensive insurance when the household's income is from 144% to 160% of the FPL and for children ages 6 through 18 with no other comprehensive insurance when the household's income is from 110% to 160% of the FPL). BEM 131, p. 1. A child under age 1 with household income between 196% to 212% of the FPL or age 1 through 18 whose household income is between 161% and 212% of the FPL is income eligible for MiChild subject to a monthly \$10 premium per family. BEM 130 (July 2016), 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, the minor child lives with Petitioner, Petitioner's spouse, and one sibling. There was no evidence to indicate that Petitioner was a non-tax filer. Thus, it is concluded that Petitioner is a tax-filer who claims the child as a tax dependent. Therefore, the child has a household size of four. See 42 CFR 435.603; BEM 211 (July 2019), pp. 1-2. The FPL for a group size of four in 2023 is \$30,000. Therefore, 160% of the annual 2023 FPL for U19 eligibility for a four-person household is \$48,000, or \$49,500 when the 5% disregard is applied (\$4,125 per month). 212% of the annual 2023 FPL for MiChild eligibility for a four-member household is \$63,600, or \$65,100 when the 5% disregard is applied (\$5,425 per month).

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).

To determine financial eligibility under MAGI-related MA programs, income must be calculated in accordance with MAGI under federal tax law. BEM 500, p. 3. MAGI is based on Internal Revenue Service rules and relies on federal tax information. BEM 500, p. 3. Income is verified via electronic federal data sources in compliance with MAGI methodology. MREM, § 1.

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 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. This figure is multiplied by the number of paychecks the client expects in 2023 to estimate income for the year. See <https://www.healthcare.gov/income-and-household-information/how-to-report/> . Effective November 1, 2017, when determining eligibility for ongoing recipients of MAGI related MA, the State of Michigan has elected to base financial eligibility on current monthly income and family size. See: https://www.michigan.gov/documents/mdhhs/MAGI-Based_Income_Methodologies_SPA_17-0100_-_Submission_615009_7.pdf

While the Department included a Work Number in its evidence packet which showed Petitioner's biweekly earnings from employment through the month of October 2023, the Department representative was unable to explain which pay dates and amounts were considered in making its determination that Child A's income exceeded the limit for U19 or MiChild MA eligibility. Additionally, it was unknown whether Petitioner had any eligible pretax withholdings for consideration or whether the Department applied a 5% disregard when calculating the MAGI. Upon review, the Department failed to establish that Child A was ineligible for full coverage MA due to excess income.

Although there was some discussion at the hearing concerning Child A's eligibility for MA under the G2U with a monthly deductible, because the Department failed to show that it properly calculated the MAGI for the household and thus, failed to establish that Child A was ineligible for full coverage MA, the calculation of Child A's MA deductible under the G2U program will not be addressed, as full coverage MA eligibility is more beneficial to Petitioner than G2U MA eligibility and will need to be redetermined. It is noted that even if the Department properly showed that Child A had excess income for

MA eligibility under the U19 or MiChild categories, the Department failed to present a G2-FIP Related (MA) Child Net Income results budget for review to determine if the Department properly calculated Child A's deductible. The Department representative provided no explanation for how the deductible was calculated. Thus, while it is possible that Child A may only be eligible for MA under the G2U, the Department failed to present sufficient evidence at the hearing in support of its position.

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 processed MA eligibility for Child A.


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 Child A's eligibility under the most beneficial category for December 1, 2023, ongoing;
2. If eligible, provide MA coverage to Child A, under the most beneficial category, that he was entitled to receive but did not from December 1, 2023, ongoing; and
3. Notify Petitioner in writing of its decision.

ZB/ml



Zainab A. Baydoun
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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Macomb County DHHS Warren Dist.
13041 E 10 Mile
Warren, MI 48089
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Interested Parties
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Via First Class Mail:

Petitioner
[REDACTED]
MI