



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]
[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: June 28, 2024
MOAHR Docket No.: 24-004179
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 May 29, 2024. Petitioner was present at the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Latasha Wright, Eligibility Specialist.

ISSUE

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

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 was an ongoing recipient of MA benefits.
2. On January 4, 2024, the Department sent Petitioner a redetermination form for MA with a due date of February 5, 2024. (Exhibit A, p. 7). On March 27, 2024, the Department received and processed Petitioner's redetermination form. (Exhibit A, pp. 7-13).
3. Petitioner is employed and receives monthly income in the amount of [REDACTED] (Exhibit A, p. 17).
4. Child receives monthly Retirement, Survivor's, and Disability Insurance (RSDI) in the amount of [REDACTED] (Exhibit A, p. 19).

5. On April 9, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice informing her that Child was approved for MA coverage with a monthly deductible of \$4,172. (Exhibit A, pp. 22-30).
6. On April 15, 2024, Petitioner requested a hearing disputing the Department's decision regarding Child's MA coverage. (Exhibit A, pp. 4-5).

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 determination of Child's eligibility for MA coverage under Group 2 Under 21 (G2U) with a monthly deductible of \$4,172 effective April 1, 2024.

MA is available (i) under SSI-related categories to individuals who are aged (65 or older), blind or disabled, (ii) to individuals who are under age 19, parents or caretakers of children, or pregnant or recently pregnant women, (iii) to individuals who meet the eligibility criteria for Healthy Michigan Plan (HMP) coverage, which is limited to individuals between the ages of 18 and 64, and (iv) to individuals who meet the eligibility criteria for Plan First Family Planning (PFFP) coverage. 42 CFR 435.911; 42 CFR 435.100 to 435.172; BEM 105 (January 2024), p. 1; BEM 137 (January 2024), p. 1; BEM 124 (July 2023), p. 1. Under federal law, an individual eligible under more than one MA category must have eligibility determined for the category selected and is entitled to the most beneficial coverage available, which is the one that results in eligibility and the least amount of excess income or the lowest cost share. BEM 105, p. 2; 42 CFR 435.404.

Child is [REDACTED] years old and is therefore potentially eligible for full coverage MA under two MA categories: Under Age 19 (U19) or MICHild. U19 is a MAGI-related MA category that includes Other Healthy Kids (OHK) and the Healthy Kids Expansion (HKE). OHK and HKE are available to children under the age of 19 whose household income does not exceed 160% of the Federal Poverty Level (FPL) based on the household's group size. Both programs are defined by age, household income, and whether the child has

other comprehensive insurance. BEM 131 (January 2022), pp. 1-2. 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. BEM 130 (January 2024), p. 1. Income eligibility exists when income does not exceed 212% of the FPL.

An individual's group size for MAGI purposes requires consideration of the individual's tax filing status and dependents. BEM 211 (October 2023), p. 2-3. Here, Child does not file taxes but is claimed as a dependent by Petitioner, so the Department considered Child as having a group size of two for MAGI-related MA categories. At the hearing, Petitioner testified that the household size for Child's MA group should be three, not two because there is also Petitioner's ■■■-year-old daughter living in the home. While Petitioner's eldest daughter was once included in the household group size when Petitioner claimed her as a dependent, Petitioner's eldest daughter filed 2023 federal taxes and indicated on her tax filing that she was not claimed as a dependent. Although Petitioner contended that her ■■■-year-old daughter was disabled, she acknowledged that she did not claim her as a dependent on her tax return.

Therefore, the Department properly concluded that, for MAGI-related MA purposes, Child has a household size of two. BEM 211 (October 2023) pp. 2-4. The FPL for a group size of two is \$20,440. See <https://aspe.hhs.gov/poverty-guidelines>. 160% of the annual FPL for a household of two is \$32,702. Therefore, to be income eligible under a U-19 MA program, the household annual income cannot exceed \$32,702 or \$2,725.33 monthly. 212% of the FPL for a household size of two is \$43,332.80. Therefore, to be income eligible for MiChild, the household annual income cannot exceed \$43,332.80 or \$3,611.06 monthly. Additionally, Department policy provides that, for MAGI-related MA policies, 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. BEM 500 (April 2022), pp. 3-5. With the 5% disregard applied, the household income limit increases for U19 to \$34,337 annually, or \$2,861.42 monthly, and for MiChild to \$45,499.44, or \$3,791.62 monthly.

To determine financial eligibility for U19 and MiChild, 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. *Id.* To determine 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 line 11 of IRS tax forms 1040, 1040-SR, and 1040-NR. 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/>. When determining financial eligibility of current beneficiaries for MAGI-related MA, the State of Michigan has elected to base eligibility on current monthly household income and family size and further consider reasonably predictable changes in income. Michigan Medicaid State Plan Amendment Transmittal 17-0100, effective November 1, 2017 and approved

by the Center for Medicare and Medicaid Services on March 13, 2018, available at https://www.michigan.gov/mdhhs/-/media/Project/Websites/mdhhs/Folder3/Folder80/Folder2/Folder180/Folder1/Folder280/SPA_17-0100_Approved.pdf.

Here, Petitioner provided check stubs that the Department used to calculate the household income. The Department testified that Petitioner's monthly income was [REDACTED] and Petitioner also acknowledged that her monthly gross income is [REDACTED]. A review of Petitioner's check stubs identifies applicable MAGI deductions, and it is unclear whether the Department applied those deductions to Petitioner's budget. Petitioner's check stubs show before tax deductions for health and dental insurance, and retirement savings deductions as well. The Department must take Petitioner's 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 retirement must be deducted from Petitioner's gross monthly income [REDACTED] (gross monthly income) - [REDACTED] (health) - [REDACTED] (dental) - [REDACTED] (retirement) = [REDACTED]. Therefore, the household's monthly income of [REDACTED] exceeds the monthly income limits for both Under Age 19 and MICHild eligibility. Thus, the Department properly determined that Child's income exceeded the income limits for full coverage MA Under Age 19 and MICHild. Therefore, the household monthly income exceeds the monthly income limits for both Under Age 19 and MICHild eligibility. Thus, the Department properly determined that Child's income exceeded the income limits for full coverage MA Under Age 19 and MICHild.

While Child has excess income for full MA coverage, she may be eligible for the Group 2 under-21 (G2U), which provides for 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 2024), 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 (October 2015), p. 2; BEM 544 (January 2020), 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 two. BEM 211 (October 2023), p. 8. The PIL for an individual with a two-person MA Group 2 fiscal group size living in [REDACTED] County is [REDACTED] 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 [REDACTED] PIL, there is eligibility for MA assistance under the deductible program, with the deductible equal to the amount that the monthly income exceeds [REDACTED].

Here, Petitioner is the only group member with earned income. Net income for each group member 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. For G2U purposes, Petitioner's countable income is her gross monthly income, which is [REDACTED] based on her gross earnings as shown in the paychecks dated March 1, 2024 and March 15, 2024. The evidence presented showed that Petitioner is only eligible for a \$90 earned income deduction.

In this case, Petitioner is unmarried, and lives with one minor child. Therefore, Petitioner has one dependent and their prorate divisor is 2.9 plus one, or 3.9. Petitioner's gross income of [REDACTED] subtracted by the \$90 earned income disregard divided by 3.9, results in Petitioner having a prorated income of [REDACTED]. See BEM 536, p. 4. Child, who has no dependents, has a prorate divisor of 2.9. BEM 535, p. 4. Child receives monthly unearned income of [REDACTED] and when divided by the 2.9 prorate divisor, she has prorated income of [REDACTED]. This is consistent with the conclusions made by the Department in its budget.

To determine Child's fiscal group net income, the Department had to add together Child's net income, or [REDACTED] and 3.9 shares of Petitioner's own income, or [REDACTED] which totals [REDACTED] consistent with the Department's calculation. Child's fiscal group's net income is reduced by allowable needs deductions for health insurance premiums (which includes Medicare premiums paid by the household and vision and dental insurance), remedial services for individuals in adult foster care home or home for the aged and cost of living adjustments (COLA) (for January through March only). BEM 544, pp. 1-2. Based on review of Petitioner's check stubs, a bi-weekly health and dental insurance premium and retirement savings deduction is deducted from Petitioner's earnings in the amount of [REDACTED] [REDACTED] and [REDACTED] respectively. The Department did not include any of the above pre-tax deductions in the budget presented at the hearing.

The Department determined Child's deductible was \$4,172 based on the household net income of [REDACTED] reduced by the [REDACTED] PIL. However, because the Department did not apply the pre-tax deductions for the health or dental insurance premiums or retirement savings, the Department did not act in accordance with Department policy when it determined Child's monthly deductible.

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 did not act in accordance with Department policy when it determined Child's deductible amount under the G2U program.

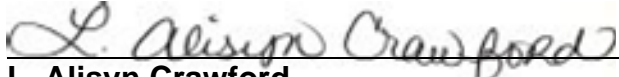
DECISION AND ORDER

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's G2U deductible effective April 1, 2024 ongoing including deductions for the health and dental insurance premiums and retirement savings reported on Petitioner's check stubs;
2. Provide Child with best available coverage she is eligible for from April 1, 2024 ongoing; and
3. Provide Petitioner notice 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:

Respondent

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Interested Party

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MOAHR

Via First Class Mail:

Petitioner

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