



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



Date Mailed: July 17, 2024
MOAHR Docket No.: 24-004763
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 June 20, 2024, from Detroit, Michigan. Petitioner was represented by his wife [REDACTED]. The Department of Health and Human Services (Department) was represented by Avery Smith, Assistance Payments Supervisor.

ISSUE

Did the Department properly determine that Petitioner's child was ineligible for Medical Assistance (MA) benefits?

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 or around [REDACTED] 2024, an application was submitted to the Department requesting MA benefits for Petitioner's son, Child A.
2. Petitioner's household includes himself, his wife, and four children. Petitioner has earned income from employment with [REDACTED].
3. On or around April 10, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice advising him that effective March 1, 2024, Child A was ineligible for MA because the value of the household's countable assets is higher than allowed. (Exhibit A, pp. 13-15)

4. On or around April 25, 2024, Petitioner requested a hearing disputing the Department's actions with respect to the denial of MA coverage for Child A. (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.

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. 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. 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. There is no asset test for the U19 or MiChild programs and both are defined by age, household income, and whether the child has other comprehensive insurance. BEM 130, pp. 1-2; BEM 131, pp. 1-2.

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. Asset eligibility is required in order to receive MA benefits under the G2U program. BEM 132, pp. 1-2; BEM 400. The Department will consider the value of cash assets in determining a client's asset eligibility for MA under the G2U. Cash assets include money/currency, uncashed checks, drafts, and warrants, as well as, money in checking, savings, money market, and/or certificate of deposit (CD or time deposit) accounts. BEM 400, pp. 14-18. An asset must be available to be countable. Available means that someone in the asset group has the legal right to use or dispose of the asset. The Department is to assume

that an asset is available unless evidence shows it is not available. BEM 400, p. 10. Asset eligibility will exist when the asset group's countable assets are less than, or equal to, the applicable asset limit at least one day during the month being tested. BEM 400, p. 6. For the G2U program, the asset limit is \$3,000. BEM 400, pp. 7-8; BEM 211 (October 2023), pp. 1-9.

In this case, Petitioner disputed the Department's determination that Child A was ineligible for MA benefits. The Department representative testified that the [REDACTED] 2024, MA application was processed, and it was determined that Child A was ineligible for MA under the Group 2 Persons Under Age 21 (G2U) category because the household's assets were in excess of the asset limit. The Department notified Petitioner of the denial of MA coverage for Child A through the issuance of the April 10, 2024, Health Care Coverage Determination Notice. The Department presented an MA Asset Budget for review showing the exact breakdown of the assets considered. (Exhibit A, p.12). The Department representative testified that in making its determination that Child A had excess assets, the Department relied on the information obtained from the bank statements presented for review and considered the value of the cash assets in the Chase Bank Account and in the Scotiabank account. (Exhibit A, pp. 7-12). The Department representative testified that the total assets were \$9,847.18 and were specifically based on the closing balance of \$5,922.17 in the Scotiabank account and the ending balance of \$3,925.01 in the Chase bank account. Petitioner's wife did not dispute that the bank statements were accurate, although she testified that the Scotiabank account balances were in Canadian Dollars and thus, when converted to US Dollars would be lower, based on the current daily exchange rate.

Upon review however, the Department was required to consider the lowest balance in each account and not the ending balance. Additionally, the Department was to apply the current income exclusion and not count any funds treated as income as an asset for the same program. A review of the Chase bank statements indicate that Petitioner's earnings are deposited into the account and further, that the lowest balance in the account during the month being tested was lower than \$3,925.01. Notwithstanding the Department's error with respect to the Chase bank account however, the lowest balance in the Scotiabank account presented for review is \$5,401.82, which when converted to US Dollars is \$3,966.54. Based on the available cash assets in the Scotiabank alone, Child A would be ineligible for MA under the G2U, as the assets exceed the \$3,000 asset limit.

Although the Department properly established that Child A would be ineligible for MA under the G2U due to excess assets, the Department representative acknowledged that Child A's MA eligibility under a MAGI program that does not have an asset test was not determined. There was some testimony that the household income may have been in excess of the MAGI income limit based on a household size of six; however, the Department did not present any evidence of this determination. Also, there was some testimony from Petitioner's wife that the household may have comprehensive health insurance through Petitioner's employment; however, this was not verified during the hearing and it was unknown whether Child A had other comprehensive health insurance

coverage that could potentially impact Child A's eligibility for MAGI related MA through the Department. The Department failed to establish that Child A was ineligible for full coverage MA under a MAGI category and thus, his MA eligibility will need to be redetermined.

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 denied Child A MA benefits.


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 MA category for March 1, 2024, 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 March 1, 2024, 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:

Respondent

Yaita Turner
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25620 W. 8 Mile Rd
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Interested Party

BSC4
M Schaefer
EQAD
MOAHR

Via First Class Mail:

Petitioner

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