



GRETCHEN WHITMER
GOVERNOR

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

MARLON BROWN
DIRECTOR

██████████
██████████
██████████ MI ██████████

Date Mailed: June 24, 2024
MOAHR Docket No.: 24-004978
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Julia Norton

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 17, 2024. Petitioner was present and self-represented. The Department of Health and Human Services (Department) was represented by Lori Turner, Eligibility Specialist.

ISSUE

Did the Department properly determine Petitioner's daughter's Medicaid (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. Petitioner is married to Spouse, and they have one child (Daughter) and live together in ██████████ County, Michigan.
2. Daughter is █ years old.
3. Daughter was an ongoing recipient of Transitional Medicaid (TMA) coverage for the period May 1, 2021 to April 30, 2024.
4. On or before February 5, 2024, Petitioner submitted a redetermination for Daughter's MA coverage. Exhibit A, pp. 8-14.
5. On April 10, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice (HCCDN) indicating that Daughter would be eligible for MA coverage with a monthly deductible of \$8,542.00 effective May 1, 2024 ongoing. The

HCCDN indicated Daughter had excess income for other full-coverage MA programs for minors. Exhibit A, pp. 21-25.

6. On April 18, 2024, the Department received Petitioner's request for hearing disputing Daughter's MA coverage. 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 disputed the Department's determination of Daughter's eligibility for MA coverage under Group 2 Under 21 (G2U) with a monthly deductible of \$8,542.00. The Department testified that Daughter had been covered by TMA during the period of May 1, 2021 to April 30, 2024. Petitioner completed a redetermination, and the Department determined Daughter was eligible for G2U, effective May 1, 2024 ongoing with a \$8,542.00 monthly deductible.

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 19 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.

Daughter is ■ years old and is therefore potentially eligible for full coverage MA under two MA categories: Under Age 19 (U19) or MICHild.

U19 is 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). 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 is eligible for OHK and HKE if the household's MAGI-income does not exceed 160% of the FPL applicable to the individual's group size. An individual's group size for MAGI purposes requires consideration of the individual's tax filing status and dependents. Daughter does not file taxes but is claimed as a dependent by Petitioner and Spouse. Therefore, Daughter has a household size of three. BEM 212 (October 2023), p. 2. The FPL for a group size of three is \$25,820.00. See <https://aspe.hhs.gov/poverty-guidelines>. 160% of the annual FPL for a household of three is \$41,312.00. Therefore, to be income eligible under a U-19 MA program, Daughter's annual income cannot exceed \$41,312.00 or \$3,442.66 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 is \$██████████ or \$██████████ monthly.

An individual is eligible for MIChild if the household's MAGI-income does not exceed 212% of the FPL applicable to the individual's group size. 212% of the FPL for a household size of three is \$54,738.40. Therefore, to be income eligible for MIChild, Daughter's annual income cannot exceed \$54,738.40 or \$4,561.53 monthly. With the 5% disregard applied, the household income limit is \$██████████ or \$██████████ monthly.

To determine financial eligibility for Under Age 19 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 and Spouse provided check stubs that the Department used to calculate income. The Department testified that Petitioner's monthly income was \$ [REDACTED] and Spouse's monthly income was \$ [REDACTED] with total monthly household income equal to \$ [REDACTED]. Petitioner's income was based on two bi-weekly check stubs from February 23, 2024 and March 8, 2024. Exhibit A, pp. 15-16. Petitioner's gross earnings from each check were \$ [REDACTED]. Petitioner's check stubs also reflect employer health coverage pre-tax deductions for dental coverage (\$42.08) and health insurance coverage (\$121.06). Petitioner's gross income of \$ [REDACTED], less the pre-tax health insurance coverage (\$163.14), results in a MAGI of \$ [REDACTED] biweekly or \$ [REDACTED] monthly. Spouse's income was based on two bi-weekly check stubs from February 23, 2024 and March 8, 2024. Exhibit A, pp. 17-18. Spouse's gross earnings from each check were \$ [REDACTED] and \$ [REDACTED]. Spouse's check stubs also reflect retirement savings deductions of \$97.50 and \$88.38. Spouse's gross monthly income of \$ [REDACTED], less the retirement savings deductions (\$185.88), results in a monthly MAGI of \$ [REDACTED]. Based on income calculated in accordance with MAGI-methodology Petitioner and Spouse's combined monthly MAGI is \$ [REDACTED] rather than \$ [REDACTED] as calculated by the Department.

Petitioner and Spouse also reported they pay a total of \$312.59 in monthly student loan interest. Student loan interest paid is an allowable deduction to consider in calculating MAGI in certain circumstances. Healthcare.gov, Reporting income deductions <https://www.healthcare.gov/reporting-deductions/> (accessed June 20, 2024); IRS Publication 970 (2023) p. 31, <https://www.irs.gov/pub/irs-pdf/p970.pdf> (accessed April 12, 2024). Reducing Petitioner's and Spouse's combined monthly MAGI by the monthly student loan interest results in a combined monthly MAGI of \$ [REDACTED].

Even though the Department's income calculation is greater than \$ [REDACTED] described here, the household's monthly MAGI-income of [REDACTED] nevertheless exceeds the monthly income limits for both Under Age 19 and MICHild eligibility. Thus, the Department properly determined that Daughter's income exceeded the income limits for full coverage MA Under Age 19 and MICHild.

Though Daughter has excess income for full MA coverage, she may be eligible for the Group 2 under-21 deductible plan (G2U). G2U is a Group 2 MA program available to individuals under age 21 who meet program eligibility factors. BEM 132 (April 2018), p.1. 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. In such cases, the client is eligible for MA coverage with a deductible, with the deductible equal to the amount the individual's net income (countable income minus allowable income deductions) exceeds the applicable Group 2 MA protected income level (PIL), which is based on the client's shelter area (county in which the client resides) and fiscal group size. 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, a child's fiscal group is the child and the child's parents. BEM 211 (October 2023), p. 8. Therefore, Daughter has a group size of three. Because Daughter lives in [REDACTED] County and her group size is 3, her PIL is \$532.00.

RFT 200 (April 2017); RFT 240, p. 1. Thus, if the household's net income, calculated in accordance with BEM 536 (July 2019), pp. 1-7, exceeds \$532.00, Daughter is eligible for MA assistance under the deductible program, with the deductible equal to the amount that the group's monthly income exceeds \$532.00.

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 \$90.00, \$30.00 plus 1/3 disregard for individuals with earnings who received Family Independence Program (FIP) in the previous year, dependent care expenses, and child support expenses. BEM 536, pp. 1-3. For G2U purposes, Petitioner's gross monthly countable income based on the paystubs provided was \$[REDACTED] and Spouse's gross monthly countable income based on the paystubs provided was \$[REDACTED]. Both Petitioner and Spouse were eligible for a \$90.00 earned income deduction. While Petitioner testified the household had dependent care expenses, none were listed on the application or had been submitted to the Department. Exhibit A, p.10. Because there was no evidence presented that Petitioner submitted dependent care expenses to the Department, the Department properly did not include a dependent care expense deduction. Petitioner is advised that she may report these expenses to the Department to impact future MA budget calculations.

The Department's budget shows that Petitioner's prorated income is \$[REDACTED], and Spouse's prorated income is \$[REDACTED]. Exhibit A, p. 19. An adult's prorated income is determined by dividing monthly budgetable income, calculated in accordance with BEM 536, pp. 1-4, by the adult's applicable prorate divisor, which is the sum of 2.9 and the number of dependents living with the adult. BEM 536, p. 4. For purposes of determining the prorate divisor, dependent means the adult's spouse and unmarried children under age 18. BEM 536, p. 4.

In this case, Petitioner and Spouse are married, and they live with their minor child. Therefore, Petitioner and Spouse each have two dependents and their prorate divisor is 2.9 plus two, or 4.9. Petitioner's gross income of \$[REDACTED] subtracted by the \$90.00 earned income disregard, divided by 4.9 prorate divisor, results in a prorated income of \$[REDACTED]. Spouse's gross income of \$[REDACTED], subtracted by the \$90.00 earned income disregard, divided by the 4.9 prorate divisor, results in a prorated income of \$[REDACTED]. Therefore, the Department correctly determined Petitioner's and Spouse's prorated income.

For MA purposes, the fiscal group's net income for the child is calculated by adding 2.9 prorated shares of the child's own income, if the child has dependents, plus for each parent of the fiscal group, 3.9 prorated shares of the parent's own income, plus one prorated share of each of the parent's own income when (i) both of the child's parents are in the fiscal group and (ii) the parents are married to each other. BEM 535, p. 6.

Daughter does not have her own income. Petitioner's prorated income (\$[REDACTED]) multiplied by 3.9 is \$[REDACTED]. Spouse's prorated income (\$[REDACTED]) multiplied by 3.9 is \$[REDACTED]. Each spouse's share of their income (\$3[REDACTED]) is added with the

couple's share of each other's income (which is the same as Petitioner's and Spouse's prorated income of \$ [REDACTED] plus \$ [REDACTED], or \$ [REDACTED]) to determine the total net income. BEM 536, pp. 6-7. Petitioner's prorated income (\$ [REDACTED]), plus Spouse's prorated income (\$ [REDACTED]), plus the couple's own share (\$1 [REDACTED]), results in a net income of \$ [REDACTED].

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. Petitioner presented evidence of a bi-weekly health insurance premium deduction of \$121.06 and a bi-weekly dental insurance premium deduction of \$42.08. Both deductions were identified on the check stubs provided to the Department. The Department did not include either insurance premium deduction in the budget presented at the hearing. The Department explained that it had amended the budget to reflect the deduction for health insurance but did not testify it included the dental insurance deduction as well.

The Department determined Daughter's deductible was \$ [REDACTED] based on the household net income of \$ [REDACTED] reduced by the \$532.00 PIL. However, because the Department did not apply the deductions for the health or dental insurance premiums, the Department did not act in accordance with Department policy when it determined Daughter'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 Daughter's MA eligibility.

DECISION AND ORDER

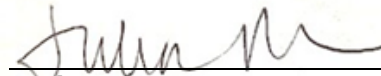
Accordingly, the Department's decision is **REVERSED**.

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 Daughter's G2U deductible effective May 1, 2024 ongoing to include deductions for the health and dental insurance premiums reported on Petitioner's check stubs; and

2. Provide Petitioner notice of its decision in writing.

JN/cc



Julia Norton
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 :

Interested Parties

MDHHS-Wayne-17-hearings
BSC4-HearingDecisions
EQADHearings
M. Schaefer
MOAHR

Via-First Class Mail :

Petitioner

██████████
████████████████████
██████████, MI ██████████