



GRETCHEN WHITMER
GOVERNOR

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

MARLON BROWN
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: July 31, 2024
MOAHR Docket No.: 24-005278
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 July 24, 2024, via Teams. Petitioner was present and was unrepresented. The Department of Health and Human Services (Department) was represented by Priya Johnson, Assistance Payments Supervisor.

ISSUE

Did the Department properly deny Petitioner's group's Medical Assistance (MA) application?

Did the Department properly deny Petitioner's Child Development and Care (CDC) application?

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 April [REDACTED] 2024, Petitioner submitted an application for MA and CDC benefits (Exhibit A, pp. 12-23).
2. Petitioner's household consisted of himself, his wife and his seven children.
3. Petitioner and his wife had income in the form of their partner's share from their Limited Liability Company (LLC) (Exhibit A, pp. 50-51). Petitioner also had income in 2023 in the form of redeemed savings bonds.

4. On April ■ 2024, the Department sent Petitioner a Health Care Coverage Determination Notice informing him that his application for MA benefits was denied (Exhibit A, pp. 37-44).
5. On April ■ 2024, the Department sent Petitioner a Notice of Case Action informing him that his application for CDC benefits was denied (Exhibit A, pp. 33-36).
6. On May 1, 2024, Petitioner submitted a request for 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).

MA

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 submitted an application for MA benefits for himself, his wife and his seven minor children. The Department determined that Petitioner and his wife were not eligible under the full coverage Healthy Michigan Plan (HMP) program. The Department also determined that Petitioner's children were not eligible under the full coverage Under 19 (U19) or MiChild MA programs.

The Department concluded that Petitioner, Petitioner's wife and his children were not eligible for HMP, U19, or MiChild because the household income exceeded the applicable income limit for the group size. HMP, U19 and MiChild use a Modified Adjusted Gross Income (MAGI) methodology. BEM 137 (October 2016), p. 1. An individual is eligible for HMP if the household's income does not exceed 133% of the Federal Poverty Level (FPL) applicable to the individual's group size. BEM 137, p. 1. There are three U19 categories for children under age 6: the Low Income Families (LIF) program applies when the household's income does not exceed 54% of the federal poverty level (FPL); the Other Healthy Kids (OHK) program applies when the household's income is between 54% and 143% of the FPL; and the Healthy Kids Expansion (HKE) program applies when the household's income is between 143% and 160% of the FPL. BEM 131, p. 1. A child between age 1 through 18 whose household income is between 160% and 212% of the

FPL is income eligible for MICHild subject to a monthly \$10 premium per family. BEM 130, pp. 1-2. Additionally, for MAGI-related MA programs, the Department allows a 5 percent disregard in the amount equal to five percent of the FPL level for the applicable family size. BEM 500 (July 2017), p. 5. It is not a flat 5 percent disregard from the income. BEM 500, p. 5. The 5 percent disregard is applied to the highest income threshold. BEM 500, p. 5. The 5 percent disregard shall be applied only if required to make someone eligible for MA benefits. BEM 500, p. 5.

An individual's group size for MAGI-related purposes requires consideration of the client's tax filing status. In this case, Petitioner and his wife filed taxes and claimed all seven children as their dependents. Therefore, for HMP purposes, each individual in the household has a group size of 9. BEM 211 (January 2016), pp. 1-2.

138% of the annual FPL in 2024 for a household with nine members is \$80,178. See <https://aspe.hhs.gov/poverty-guidelines>. The monthly income limit for a group size of one is \$6,681.50. Therefore, for Petitioner and his wife to be income eligible for HMP, Petitioner's household's income cannot exceed \$80,178 annually or \$6,681.50 monthly. 165% of the FPL of the annual 2024 FPL for HKE, for a nine-member household is \$95,865 per year or \$7,988.75 per month. 217% of the annual 2023 FPL for MICHild, which has the highest income threshold, for a nine-member household is \$126,077, or \$10,506.42 per month, when the 5% disregard is applied.

To determine financial eligibility under MAGI MA programs, income must be calculated in accordance with MAGI under federal tax law. BEM 500 (July 2017), 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 11, 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.healthcare.gov/income-and-household-information/how-to-report/>. For MAGI MA benefits, if an individual receives RSDI benefits and is a tax filer, all RSDI income is countable. BEM 503 (January 2019), p. 29.

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

The Department presented Petitioner's 1040 tax form. Petitioner's total household AGI for 2023 was \$[REDACTED]. However, per the tax form, Petitioner redeemed \$[REDACTED] in

savings bonds. Petitioner testified that he redeemed the bonds in March or April of 2023. Petitioner stated that his current income does not include any redemption from savings bonds. Although the savings bonds were included in Petitioner's 2023 AGI, the income is not reflective of Petitioner's current income. As stated above, the Department is to consider the household's current income as of the date of the application, which was submitted in April 2024. Therefore, the income from the savings bonds should not be included. As Petitioner has not yet filed his 2024 tax return, Petitioner's 2023 tax return best reflects his current income. Therefore, Petitioner's current countable MAGI based household income is \$██████████ per year or \$██████████ per month. Petitioner's household income exceeds the income limit under the HMP program and the U19 program. However, Petitioner's household income is under the income limit for MiChild. Therefore, the Department properly determined that Petitioner and his wife were not eligible for full coverage MA under the HMP program. The Department did not properly determine that Petitioner's children were not eligible for full coverage MA under the MiChild MA program.

The Department testified that Petitioner and his wife were also not eligible for MA benefits under the Group 2 Parent/Caretaker (G2C) MA program due to excess assets. For C2C MA, countable assets cannot exceed the limit under BEM 400. BEM 165, p. 8. Countable assets are determined based on MA policies in BEM 400, 401 and 402. BEM 165, p. 8. All types of assets are considered for the G2C MA category, including savings bonds. BEM 400, p. 26. The asset limit for G2C MA is \$3,000. BEM 400, p. 8.

At the hearing, Petitioner conceded that his wife owns savings bonds in excess of \$100,000. Therefore, the Department properly determined that Petitioner and his wife were not eligible for MA benefits under the G2C MA category.

CDC

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

In this case, Petitioner submitted an application for CDC benefits on April █ 2024. The Department determined Petitioner exceeded the income limit for CDC eligibility. As a result, the Department sent Petitioner notice informing him that his CDC application was denied.

Eligibility for CDC is based on program group size and non-excluded income received by any member of the group. BEM 703 (January 2018), p. 16. To be eligible for the Child Development and Care (CDC) program at application, a family's gross monthly income must not exceed the maximum monthly gross income limit by family size associated with the program entry limit (\$15 family contribution category). RFT 270 (October 2017), p. 1.

After initial eligibility has been determined, a family's income must not exceed the maximum monthly gross income eligibility limit by family size associated with the \$90 family contribution category. RFT 270, p. 1. Petitioner has a group size of nine. The income limit at entry for a group size of nine is \$9,284.

All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits. Group composition policies specify whose income is countable. BEM 500 (January 2016), pp. 1–5. The Department counts the income a client receives from an S-Corp or LLC as wages, even if the client is the owner. BEM 501 (January 2024), p. 5. S-Corporations and Limited Liability Companies (LLCs) are not self-employment. BEM 502 (October 2019), p. 1. Wages are the pay an employee receives from another individual organization or S-Corp/LLC. Wages include salaries, tips, commissions, bonuses, severance pay, and flexible benefit funds not used to purchase insurance. BEM 501, p. 6. Verification sources include: (i) check stubs or earnings statement (ii) verification of employment forms, for example MDHHS-38, Verification of Employment (iii) employer signed statement providing all necessary information; (iv) employer generated work schedule, when pay frequency, pay day and rate of pay are known; (v) Equifax Verification Services (formerly known as the Work Number) (vi) employment services contractors including the one-stop service center, the work participation provider and refugee employment services contractors; (vii) starting or increasing income; or (viii) Federal income tax forms and schedules are allowable for Medicaid determinations. BEM 501, pp. 11-12.

The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (April 2017), pp. 1-2. In prospecting income, the Department is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, pp. 5-6. A standard monthly amount must be determined for each income source used in the budget. BEM 505, pp. 7-8. Income received biweekly is converted to a standard amount by multiplying the average of the biweekly pay amounts by the 2.15 multiplier. Income received weekly is converted to a standard amount by multiplying the average of the weekly pay amounts by the 4.3 multiplier. BEM 505, pp. 7-9. An employee's wages include salaries, tips, commissions, bonuses, severance pay and flexible benefit funds not used to purchase insurance. BEM 501 (July 2017), p. 6. The Department counts gross wages in the calculation of earned income. BEM 501, p. 7.

Per policy, the Department can use tax forms and schedules for MA determinations. BEM 501, p. 12. However, policy also states that although each BEM item lists acceptable verification sources, other, less common sources may be used if accurate and reliable. BAM 130 (May 2024), p. 6. The Department may use a particular source if it is the most reliable (public records, data matches). BAM 130, p. 6. Otherwise, the Department will use the one easiest to obtain. BAM 130, p. 6. Petitioner's 1040 tax form is the easiest to obtain and the most accurate reflection of his actual income. Therefore, the Department may utilize the 1040 tax form for Petitioner's CDC case.

As stated above, the CDC program uses gross income. Per the 1040 tax form, Petitioner's household gross income was \$ [REDACTED] per year or \$ [REDACTED] per month. However, as stated above, Petitioner's redemption of the savings bond does not reflect Petitioner's normal, expected pay amounts. Per policy, the Department is to disregard any unusual payments. Petitioner's gross income of \$ [REDACTED] deducted by the \$ [REDACTED] savings bond redemption is \$ [REDACTED] per year or \$ [REDACTED] per month. Therefore, Petitioner's household gross income does not exceed the limit for his group size. Thus, the Department did not act in accordance with policy when it denied Petitioner's CDC application.

DECISION AND ORDER

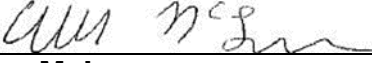
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did not act in accordance with Department policy when it denied Petitioner's children's MA application and Petitioner's CDC application. The Department did act in accordance with Department policy when it denied Petitioner's and Petitioner's wife's MA application.

Accordingly, the Department's decision is **AFFIRMED IN PART** with respect to Petitioner's and Petitioner's wife's MA eligibility, and **REVERSED IN PART** with respect to Petitioner's children's MA eligibility and Petitioner's CDC application.

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. Reinstate and reprocess Petitioner's children's April █ 2024 MA application;
2. Reinstate and reprocess Petitioner's April █ 2024 CDC application;
3. If Petitioner is eligible for CDC benefits, provide supplements he is entitled to receive;
4. Provide Petitioner's children with MA benefits they are entitled to receive; and
5. Notify Petitioner of its MA decision in writing.

EM/dm



Ellen McLemore
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
**MDHHS-Oakland-6303-
Hearings@michigan.gov**

SchaeferM

EQADHearings

Brewer-WalravenL

BSC4HearingDecisions

MOAHR

Via-First Class Mail :

Petitioner

██████████
██████████████████
██████████████████████████████