



GRETCHEN WHITMER  
GOVERNOR

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

MARLON BROWN  
DIRECTOR

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Date Mailed: October 15, 2024  
MOAHR Docket No.: 24-007915  
Agency No.: ██████████  
Petitioner: ██████████

**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 September 16, 2024, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Megan latonna, Hearing Facilitator. Mona Sayed served as Arabic interpreter.

**ISSUE**

Did the Department properly determine Medical Assistance (MA) eligibility for Petitioner's two children?

**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's household includes herself and two minor children.
2. On or around ██████████ 2024, Petitioner submitted an application for MA benefits for the children. (Exhibit A, pp.7-12)
3. The Department processed the application as a change report, as Petitioner had previously applied for MA on behalf of the children in November 2023, and they were approved for MA under the Group 2 Persons Under Age 21 (G2U) category subject to a monthly deductible. (Exhibit A, pp. 29-31)
4. On or around July 8, 2024, Petitioner submitted a hearing request, disputing the Department's failure to respond to her ██████████ 2024, MA application and failure to issue an eligibility determination. (Exhibit A, pp. 5-6)

5. On or around July 11, 2024, the Department sent Petitioner a Health Care Coverage Determination Notice, advising that effective August 1, 2024, ongoing, Petitioner's children were approved for MA subject to a monthly deductible of \$2,989. (Exhibit A, pp. 43-49)
  - a. Although the notice reflects a deductible amount of \$2,989, the Department asserted that the actual amount of the deductible as reflected in the Department's eligibility summary and other documentation in Bridges is \$2,096 effective August 1, 2024. (Exhibit B, pp. 9-11)

### **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 her two children. The Department representative testified that based on the household's income, the children were not eligible for a full coverage MA program and only eligible for MA under a Group 2 category subject to a monthly deductible of \$2,096 effective August 1, 2024.

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.

The Department concluded that Petitioner's children were 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.

Because the income limit for the MiChild program is higher than the other children's MA programs, eligibility for MiChild will be discussed first. In order to determine income eligibility for the MAGI-related MiChild program, the household's MAGI income must be considered. In this case, the minor children live with Petitioner and 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 two children as tax dependents. Therefore, the children have a household size of three. See 42 CFR 435.603; BEM 211 (July 2019), pp. 1-2. The FPL for a group size of three in 2024 is \$25,820. 212% of the annual FPL in 2024, for a household with three members is \$54,738.40. See <https://aspe.hhs.gov/poverty-guidelines>. Therefore, to be income eligible for MiChild, the annual income cannot exceed [REDACTED] and thus, the monthly income cannot exceed [REDACTED] as the children were current MA beneficiaries. Additionally, Department policy provides that 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. MREM, § 7.2; BEM 500 (April 2022), pp. 3-5. With the 5% disregard applied, the household income limit is [REDACTED] or [REDACTED] monthly.

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). For RSDI income, there are special budgeting rules for MAGI-related MA programs. BEM 503 (April 2024), p. 31. All RSDI income is countable to tax-filers and adults not claimed as dependents. BEM 503, p. 31. A child/tax dependent's RSDI is countable only if that child or tax-dependent is required to file taxes. BEM 503, p. 31. If a child or tax-dependent meets an exception outlined in BEM 211, then all of their RSDI income is countable even if they are not required to file taxes. BEM 503, p. 31.

Additionally, to determine financial eligibility under HMP, income must be calculated in accordance with MAGI under federal tax law. 42 CFR 435.603(e); BEM 500 (April 2022), 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. 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, child care, or retirement savings. See <https://www.healthcare.gov/income-and-household-information/how-to-report/>. When determining financial eligibility of current beneficiaries of MAGI-related MA, the State of Michigan has elected to base eligibility on current monthly income and family size. 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](https://www.michigan.gov/mdhhs/-/media/Project/Websites/mdhhs/Folder3/Folder80/Folder2/Folder180/Folder1/Folder280/SPA_17-0100_Approved.pdf).

At the hearing, the Department representative testified that in calculating the household MAGI, it considered monthly rental income received by Petitioner, earned income from Petitioner's employment, Retirement Survivors and Disability Insurance (RSDI) for Petitioner and the two children, as well as a monthly annuity. The Department testified that the household MAGI was [REDACTED]. In light of the above referenced policy, when the 5% disregard is applied, Petitioner's children are income eligible for MiChild and it was unclear why the Department did not approve the children for MiChild coverage.

However, upon review, there are errors with the Department's MAGI calculation and the actual monthly MAGI is lower than the [REDACTED] determined by the Department, further supporting the approval of MiChild MA benefits, as the household income is below the income limit. There was no dispute that Petitioner receives monthly income from a rental property in the amount of [REDACTED]. The Department representative testified that the MAGI determination screen in Bridges showed that monthly wages in the amount of [REDACTED] were considered. The Department representative testified that relying on the Work Number, it considered the [REDACTED] paid to Petitioner on April 19, 2024, and [REDACTED] paid to Petitioner on May 3, 2024. (Exhibit B). This totals [REDACTED] and not [REDACTED] as determined by the Department. Additionally, the Department considered RSDI benefits in the amount of [REDACTED] each for Petitioner and the two children as survivor's benefits. As referenced above, while Petitioner's RSDI is countable, the children's total RSDI of [REDACTED] is not

countable, as the children live with their mother and the amounts are below the tax filing threshold.

With respect to the annuity payment, although the payments received from an annuity are unearned income, for MAGI related MA, some structured annuity income that is non-taxable may not be counted toward an individual's MA income. BEM 503, p.4. BEM 401 provides that disbursements from annuities are generally countable as income in the month that they are received. However, in some cases, such as structured annuities that result from lawsuit settlements, this annuity income may not be taxable. Therefore, part or all of the annuity payments may not be countable toward an individual's MAGI income. In order to determine what parts of an annuity payment may or may not be countable toward an individual's income please follow the process for referrals to the Trusts and Annuities Unit outlined in this item to have the annuity evaluated. In the case of MAGI-related annuity evaluations, a copy of the lawsuit settlement agreement must be submitted to the Trusts and Annuities Unit in order to make the determination. See BEM 401 (January 2022), p.1. Thus, while Petitioner did not dispute that she receives a monthly annuity payment of [REDACTED] there was no evidence that the Department followed the policy identified above to evaluate the annuity, and thus, the Department failed to establish that it was countable towards the MAGI determination.

Upon review, the Department failed to establish that the household had excess income and that Petitioner's two children were ineligible for MA benefits under the MiChild category. Although there was some discussion at the hearing concerning the children's eligibility for MA under the G2U with a monthly deductible, because MA coverage under MiChild is more beneficial than the limited coverage G2U with a monthly deductible, the calculation of the MA deductible will not be addressed.

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 MA eligibility for Petitioner's two children.


**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. Provide Petitioner's two children with MA coverage under the MiChild category from August 1, 2024, ongoing; and
2. 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**

Dawn Tromontine  
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41227 Mound Rd.  
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**MDHHS-Macomb-36-Hearings@michigan.gov**

**Interested Parties**

BSC4  
M Schaefer  
EQAD  
MOAHR

**Via First Class Mail:**

**Petitioner**

[REDACTED]  
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[REDACTED] MI [REDACTED]