



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

[REDACTED]

Date Mailed: [REDACTED]
MAHS Docket No.: 16-006869
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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; 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 [REDACTED], [REDACTED], from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], hearing facilitator.

ISSUES

The first issue is whether MDHHS properly denied Petitioner's Child Development and Care application due to excess income.

The second issue is whether MDHHS properly determined Petitioner's Food Assistance Program (FAP) 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 was a member of a 4-person CDC and FAP benefit group.
2. Beginning [REDACTED], MDHHS reduced Petitioner's authorized CDC hours to zero.
3. Petitioner had ongoing employment income of \$2,211.

4. As of [REDACTED], Petitioner's household received \$128/month in child support.
5. On [REDACTED], MDHHS terminated Petitioner's CDC eligibility, effective [REDACTED], due to excess income.
6. On [REDACTED], MDHHS determined Petitioner was eligible to receive \$61 in FAP benefits, effective [REDACTED], in part, based on \$359 in monthly child support.
7. On [REDACTED], Petitioner requested a hearing to dispute the suspension and termination of CDC benefits, as well as her FAP eligibility from [REDACTED].

CONCLUSIONS OF LAW

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. MDHHS 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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing to dispute the denial of a CDC application. It was not disputed Petitioner was actually an ongoing CDC recipient whose benefits stopped. Petitioner testimony clarified that her dispute was that her CDC provider was unable to bill for CDC benefits beginning [REDACTED].

MDHHS presented a Notice of Case Action (Exhibit 1, pp. 1-3) dated [REDACTED]. The notice stated Petitioner's CDC eligibility was denied beginning [REDACTED]. The stated reasons supporting denial were excess income and lack of need for a parent/substitute parent.

At application or redetermination, each [parent/substitute parent] must demonstrate a valid need reason. BEM 703 [REDACTED] p. 4. There are four valid CDC need reasons listed below. *Id.* Each need reason must be verified. *Id.* [The need reasons are] family preservation, high school completion, an approved activity, [or] employment. *Id.*

If the program group does not qualify for one of the categorically eligible groups, [MDHHS is to] determine eligibility for the income-eligible group. BEM 703 ([REDACTED]), p. 14. Eligibility for this group is based on program group size and non-excluded income received by any member of the program group; see program group definition in BEM 205. *Id.* At application, the program group's gross income must not exceed 95% of the income eligibility scale in RFT 270. *Id.*

MDHHS failed to provide a CDC budget. A budget summary for FAP eligibility (see Exhibit 1, p. 3) was presented. For purposes of this decision, the FAP budget summary will be presumed to accurately reflect the income factored for Petitioner's CDC eligibility.

MDHHS factored Petitioner's CDC group received \$2,211 in earned income; Petitioner agreed the amount was correct. MDHHS factored \$359 in unearned income; MDHHS testimony conceded only \$128 in income should have been factored. Petitioner's income for CDC eligibility is found to be \$2,339. The income limit for a 4-person CDC group (with a \$15 per child per pay period copayment) is \$2,367. It is found MDHHS improperly terminated Petitioner's CDC eligibility due to excess income.

MDHHS presented no evidence to support a stoppage in CDC benefits due to a lack of need. It is found MDHHS improperly terminated Petitioner's CDC eligibility, effective [REDACTED].

During the hearing, MDHHS checked Petitioner CDC casefile. MDHHS testimony conceded Petitioner was eligible to receive CDC benefits beginning [REDACTED], however, no hours were authorized. MDHHS testimony indicated that no authorized CDC hours were issued possibly because Petitioner was tardy in submitting paperwork for her CDC provider.

MDHHS testimony credibly indicated a Notice of Case Action was mailed to Petitioner on [REDACTED]. The notice was not presented as an exhibit, however, MDHHS presented credible testimony that the notice informed Petitioner of a closure effective [REDACTED], due to an alleged failure by Petitioner to submit CDC provider documentation. MDHHS testimony conceded the closure was or should have been revoked because Petitioner submitted CDC provider documentation on [REDACTED]. It is found MDHHS improperly authorized zero hours for Petitioner's CDC benefits.

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. MDHHS (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner also requested a hearing to dispute FAP eligibility. Petitioner testified she specifically disputed her FAP eligibility beginning [REDACTED]. MDHHS presented a Notice of Case Action (Exhibit 1, pp. 1-3) dated [REDACTED]. The provided notice indicated MDHHS issued \$61 in FAP benefits to Petitioner for [REDACTED].

BEM 556 details the procedures for determining FAP eligibility. Policy requires MDHHS to factor countable income or expenses.

MDHHS presented a budget summary (see Exhibit 1, p. 3) concerning Petitioner's FAP eligibility for [REDACTED]. The summary lists all countable income and expenses. Petitioner disputed only two budget factors.

MDHHS factored \$0 in dependent care expenses. Petitioner testimony indicated she has been paying for her day care expenses since [REDACTED]. Petitioner testimony also conceded she does not have CDC expenses when she has active CDC benefits. As MDHHS is ordered to authorize Petitioner's CDC eligibility since [REDACTED] it is presumed Petitioner will have no out-of-pocket CDC expenses. Thus, \$0 dependent care expenses is considered to be the proper amount to budget in Petitioner's FAP eligibility.

MDHHS factored Petitioner's unearned income was \$359. MDHHS testimony indicated the amount exclusively consisted of child support income. MDHHS testimony indicated the FAP budget factored average child support payments for two different sons (\$192 in support for one child and \$167.48 for the other). MDHHS testimony conceded only \$128 in total child support should have been budgeted. Based on presented evidence, it is found MDHHS improperly factored Petitioner's child support income.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly suspended and terminated Petitioner's CDC eligibility. It is further found MDHHS improperly determined Petitioner's FAP eligibility. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Authorize Petitioner's verified CDC hours, effective [REDACTED];
- (2) Reinstate Petitioner's CDC eligibility, effective [REDACTED]; and
- (3) Recalculate Petitioner's FAP eligibility, effective [REDACTED] subject to the finding that Petitioner's household received \$128/month in child support.

The actions taken by MDHHS are **REVERSED**.

CG/hw



Christian Gardocki

Administrative Law Judge

for Nick Lyon, Director

Department of Health and Human Services

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 Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS 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. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to [REDACTED]; Attention: MAHS Rehearing/Reconsideration Request.

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS



Petitioner

