



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: June 10, 2016
MAHS Docket No.: 16-006055
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Eric J. Feldman

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 June 1, 2016, from Detroit, Michigan. The Petitioner was represented by [REDACTED] (Petitioner). The Department of Health and Human Services (Department) was represented by [REDACTED], Eligibility Specialist.

ISSUE

Did the Department properly deny Petitioner's Child Development and Care (CDC) program application effective March 20, 2016?

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], Petitioner applied for CDC benefits.
2. Petitioner's total countable income consisted of earned income, child support income, and Retirement, Survivors, and Disability Insurance (RSDI) income. See Exhibit A, p. 10.
3. On [REDACTED], the Department sent Petitioner a Notice of Case Action notifying her that her CDC application was denied effective [REDACTED], due to her gross income exceeding the entry limit for the CDC program. See Exhibit A, pp. 7-9.

4. On [REDACTED], Petitioner filed a hearing request, protesting the CDC denial and her Food Assistance Program (FAP) benefits. See Exhibit A, pp. 3-4.

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 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. The Department (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.

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.

Preliminary matter

On [REDACTED], Petitioner also filed a hearing request in which she protested her FAP benefits. See Exhibit A, pp. 3-4. Shortly after commencement of the hearing, Petitioner testified her FAP issue had been resolved and she is no longer disputing her FAP benefits. As such, Petitioner's FAP hearing request is DISMISSED.

CDC application

For income eligible CDC determinations, the income of all program group members must be considered. BEM 525 (April 2016), p. 1. The Department uses the gross (before deductions) countable, monthly income to determine the amount the department will pay towards the group's child care costs. BEM 525, p. 1. Note, when income eligibility is established in the first pay period of an application and a change in income is reported, the income change is not required to be verified for approval of subsequent pay periods. BEM 525, p. 1.

The Department completes a CDC budget at application and redetermination or when the client reports an increase in income that exceeds the eligibility income scale for the

group size. BEM 525, p. 1. This amount will be printed on the DHS-1605, Notice of Case Action, at application and redetermination. BEM 525, p. 1.

In order to enter the CDC program, the family's gross monthly income cannot exceed the \$15.00 flat-rate family contribution for their family group size. BEM 525, p. 1. Flat-rate family contributions are per child per biweekly pay period. BEM 525, p. 1.

RFT 270 states that the income eligibility limit to enter the CDC program is \$2,367 for a family size of four under the \$15.00 flat-rate family contribution. RFT 270 (January 2016), p. 1.

In the present case, the Department argued that Petitioner was not eligible for the CDC program because her gross income exceeded the \$2,367 entry limit for a family size of four. As part of the evidence record, the Department presented the CDC – Income Eligibility budget for the benefit period of [REDACTED] to show how her income exceeded the limits. See Exhibit A, p. 10. It should be noted that the Department indicated the budget calculations were the same for the benefit period of [REDACTED], which was during the pay period in which Petitioner submitted her CDC application. Nonetheless, the undersigned reviewed the CDC budget presented for the evidence record.

First, the Department calculated Petitioner's gross earned income to be \$2,451, which consisted of her employment income. See BEM 501 (July 2014), pp. 6-7 (wages) and Exhibit A, p. 10. However, the Department was unable to provide testimony on how it calculated the earned income. Petitioner, though, provided testimony as to her earned income and argued that the Department miscalculated it. Petitioner testified as to the following: (i) she had returned to work after her maternity leave in March 2016; (ii) for March 2016, her gross monthly income was \$1,176, which was based on two weeks of income; (iii) for April 2016, her gross monthly income increased to \$2,353; and (iv) she indicated that she works 40 hours a week, she is paid \$14.71/hour, and she is paid biweekly.

In order to determine if the Department properly calculated Petitioner's earned income, the undersigned must review Department policy. BEM 525, CDC Income Budget, directs the undersigned to review BEM 505, Prospective Budgeting/Income Change Processing, for details on when a budget is needed, income and benefit month definitions, and the conversion of income to a monthly figure. BEM 525, p. 1. Thus, the undersigned turns to BEM 505 policy to determine if the Department properly calculated the gross earned income.

A group's benefits for a month are based, in part, on a prospective income determination. BEM 505 (April 2016), p. 1. A best estimate of income expected to be received by the group during a specific month is determined and used in the budget computation. BEM 505, p. 1.

A group's financial eligibility and monthly benefit amount are determined using:

- Actual income (income that was already received).
- Prospected income amounts (not received but expected).

BEM 505, p. 1. Only countable income is included in the determination. BEM 505, p. 1. Each source of income is converted to a standard monthly amount, unless a full month's income will not be received. BEM 505, p. 1. It should be noted that benefit month is defined as the month an assistance benefit payment covers. BEM 505, p. 1. But, for CDC, benefit month is the month in which the pay period ends. BEM 505, p. 1.

The Department budgetable income using countable, available income for the benefit month being processed. BEM 505, p. 2. Note, for CDC only, when income eligibility is established in the first pay period of an application and a change in income is reported, the income change is not required to be verified for approval of subsequent pay periods. BEM 505, p. 2. For past months, the Department uses actual gross income amounts received for past month benefits, converting to a standard monthly amount, when appropriate. BEM 505, p. 2. For current and future months, prospect income using a best estimate of income expected to be received during the month (or already received). BEM 505, p. 3.

The Department uses past income to prospect income for the future unless changes are expected: use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month. BEM 505, p. 5. Discard a pay from the past 30 days if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, p. 5.

Finally, the Department converts stable and fluctuating income that is received more often than monthly to a standard monthly amount. BEM 505, p. 8. The Department uses one of the following methods: (i) multiply weekly income by 4.3; (ii) multiply amounts received every two weeks by 2.15; or (iii) add amounts received twice a month. BEM 505, p. 8. Exception, do not convert income for the month income starts or stops if a full month's income is not expected in that month. BEM 505, p. 8. Use actual income received or income expected to be received in these months. BEM 505, p. 8.

In this case, though, Petitioner did not have income from the past 30 days to prospect her income for the future as she just returned to her employer after her maternity leave. Nonetheless, policy provides information as to the starting of income. For starting income, use the best available information to prospect income for the benefit month. BEM 505, p. 7. This may be based on expected work hours times the rate of pay. BEM 505, p. 7. Or if payments from the new source have been received, use them in the budget for future months if they accurately reflect future income. BEM 505, p. 7.

Based on the starting income policy, the undersigned finds that her prospective income for April 2016 was \$2,353, which was based on her own testimony. See BEM 505, p. 7. As a reminder, policy states for CDC only, the benefit month is defined as the month in

which the pay period ends. See BEM 505, p. 1. Petitioner's application was during the pay period of [REDACTED], which meant the benefit month in which to determine her income eligibility and prospective budgeting would be for the month of April 2016. See BEM 505, pp. 1-8. As stated previously, the Department was unaware of how it calculated Petitioner's earned income of \$2,451. See Exhibit A, p. 10. Nevertheless, this is harmless error by the Department because Petitioner's own testimony was that her gross earned income was \$2,353 for April 2016. Furthermore, when the undersigned adds Petitioner's unearned income that she did not dispute, which was the \$63.35 in child support income and \$315 in RSDI income (Exhibit A, p. 10), Petitioner's total countable income is approximately \$2,731. This total countable income clearly exceeds the \$2,367 entry limit for a family size of four for the CDC program. RFT 270, p. 9. Thus, the Department acted in accordance with Department policy when it denied Petitioner's CDC application effective [REDACTED], due to the gross income exceeding the entry limit for the CDC program. BEM 505, pp. 1-8; BEM 525, p. 1; and RFT 270, p. 1.

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 acted in accordance with Department policy when it denied Petitioner's CDC application effective [REDACTED].

Accordingly, the Department's CDC decision is **AFFIRMED**.

IT IS ALSO ORDERED that Petitioner's **FAP** hearing request is **DISMISSED**.

EF/hw



Eric J. Feldman

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 (517) 335-6088; 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

[REDACTED]

[REDACTED]

Petitioner

[REDACTED]