



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
[REDACTED]  
[REDACTED] MI [REDACTED]

Date Mailed: January 17, 2019  
MAHS Docket No.: 18-013149  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Jeffrey Kemm

**HEARING DECISION**

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; 7 CFR 273.15; 42 CFR 431.200 to 431.250; 42 CFR 438.400 to 438.424; 45 CFR 99.1 to 99.33 and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on January 16, 2019, from Lansing, Michigan. Petitioner, [REDACTED] [REDACTED] appeared and represented herself. Hearing Facilitator, Kathleen Scorpio-Butina, appeared with Cash Worker, Michelle Laux, on behalf of the Department. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 47-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

**ISSUE**

Did the Department properly determine Petitioner's eligibility for Food Assistance Program (FAP), Child Development and Care (CDC) assistance, and Medical Assistance (MA)?

**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 September 12, 2018, Petitioner obtained full legal guardianship of [REDACTED] [REDACTED]. Petitioner has had physical custody of [REDACTED] [REDACTED] since before the date she obtained full legal guardianship.
2. On October 2, 2018, Petitioner notified the Department that she obtained full legal guardianship of [REDACTED] [REDACTED]. Petitioner asked the Department to add him to her case.

3. On November 27, 2018, the Department issued a Notice of Case Action. The Notice notified Petitioner that [REDACTED] [REDACTED] was added to her Family Independence Program (FIP) case effective October 1, 2018. The Department did not add [REDACTED] [REDACTED] to Petitioner's CDC, FAP, or MA. The Department did not add [REDACTED] [REDACTED] to Petitioner's FAP and MA because he was active for those programs on a different case.
4. The Department subsequently added [REDACTED] [REDACTED] to Petitioner's CDC case, but the Department associated him with a provider other than the one Petitioner asked for. The Department grouped [REDACTED] [REDACTED] with Petitioner's other children and listed all of them with the same provider. Petitioner wanted [REDACTED] [REDACTED] to continue to receive care from his existing provider, which was different from the provider she intended to use for her other children.
5. On December 7, 2018, Petitioner filed a hearing request to dispute the Department's actions with respect to her CDC, FAP, and MA.

### **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.

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.

Here, the Department erroneously excluded [REDACTED] [REDACTED] from Petitioner's group when the Department issued its Notice of Case Action on November 27, 2018, following Petitioner's report that she had full legal guardianship and physical custody of [REDACTED] [REDACTED]. The Department's determination of Petitioner's group size for FAP, CDC, and MA was not in accordance with its policies because Petitioner was the legal guardian of [REDACTED] [REDACTED] and he was living with her. In general, a group consists of the individuals living together, including a legal guardian of a minor child. BEM 212 (January 1, 2017), BEM 211 (January 1, 2016), and BEM 205 (October 1, 2017). Since Petitioner was the legal guardian of her [REDACTED] [REDACTED] and since they were living together, the Department should have found that Petitioner's group size included him. The Department did not provide any legitimate explanation for excluding [REDACTED] [REDACTED] from Petitioner's group. Therefore, I must find that the Department did not act in accordance with its policies when it excluded [REDACTED] [REDACTED] from Petitioner's group.

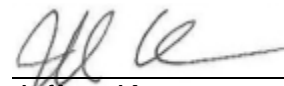
### **DECISION AND ORDER**

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 its policies and the applicable law when it determined Petitioner's eligibility for FAP, CDC, and MA.

IT IS ORDERED the Department's decision is **REVERSED**.

IT IS FURTHER ORDERED that the Department shall initiate a review of Petitioner's eligibility in accordance with this decision.

JK/nr



---

Jeffrey Kemm  
Administrative Law Judge  
for Robert Gordon, 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) 763-0155; 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**

Lauren Casper  
27690 Van Dyke  
Warren, MI  
48093

Macomb 20 County DHHS- via electronic mail

BSC4- via electronic mail

M. Holden- via electronic mail

D. Sweeney- via electronic mail

D. Smith- via electronic mail

EQAD- via electronic mail

L. Brewer-Walraven- via electronic mail

**Petitioner**

[REDACTED]  
[REDACTED]  
[REDACTED], MI  
[REDACTED]