



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: March 19, 2019
MAHS Docket No.: 19-000597
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; 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 March 7, 2019, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by [REDACTED], hearing facilitator, and [REDACTED], specialist.

ISSUE

The issue is whether MDHHS properly denied Petitioner's application for Child Development and Care (CDC).

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 October 30, 2018, Petitioner submitted to MDHHS an application for CDC benefits. Petitioner reported the following: employment of 40 hours/week, a household including four minor children, and homelessness. Exhibit A, pp. 4-11.
2. On an unspecified date, MDHHS issued CDC benefits to Petitioner based on petitioner's presumptive eligibility.

3. On October 31, 2018, Petitioner submitted to MDHHS employment income verifications for the following biweekly amounts: [REDACTED] on October 5, 2018, and [REDACTED] on October 19, 2018. Exhibit A, pp. 18-19.
4. As of November 2018, Petitioner received child support income as follows: [REDACTED] in August 2018, [REDACTED] in September 2018, and [REDACTED] in October 2018. Exhibit A, pp. 23-25.
5. On December 10, 2018, MDHHS mailed Petitioner a Notice of Case Action denying CDC benefits, effective December 23, 2018. The stated reasons for denial were a failure to provide verifications and that a parent did not have a need reason for CDC. Exhibit A, pp. 14-17.
6. On January 11, 2019, Petitioner requested a hearing to dispute the denial of CDC benefits. Exhibit A, p. 2.

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

Petitioner applied for CDC benefits on October 30, 2018. MDHHS issued CDC benefits to Petitioner through the biweekly CDC pay period ending December 22, 2018, which contains the 45th day following Petitioner's CDC application. Petitioner requested a hearing to dispute the denial of CDC benefits following the 45-day period of expedited CDC eligibility.

The purpose of CDC expedited service is to help the neediest clients quickly. BAM 118 (October 2018) p. 1. Applicant groups with children who experience homelessness are entitled to expedited CDC eligibility. *Id.* CDC expedited service results in a 45-day presumptive eligibility period. *Id.*, p. 5. Benefits are initially approved based on a client's statements. *Id.* Once all verifications are received, MDHHS is to certify eligibility based on CDC eligibility policy. *Id.*

A Notice of Case Action dated December 10, 2018, stated that Petitioner's CDC eligibility would end December 23, 2018, due to a parent not meeting a need reason and a failure by Petitioner to provide verifications. MDHHS testimony acknowledged that both stated reasons for ending Petitioner's CDC eligibility were improper. Thus, given

the stated reasons for denial, it can be found that the denial of CDC benefits was improper.

MDHHS' Hearing Summary (Exhibit A, p. 1) also alleged that Petitioner was properly denied CDC benefits following presumptive eligibility due to Petitioner's excess income. MDHHS cited Petitioner's gross biweekly employment income from October 2018 which exceeded [REDACTED], Petitioner's child support income from August 2018 through October 2018 which averaged over [REDACTED]/month, and the entry-income limit for a 4 -person CDC group which is [REDACTED]. Though a budget was not presented, it is readily apparent that Petitioner is above the entry limit for CDC benefits.¹ The obstacle to undergoing an analysis of whether MDHHS denied Petitioner's CDC eligibility due to excess income is that MDHHS did not follow their procedures for such a denial.

Upon certification of eligibility results, Bridges automatically notifies the client in writing of positive and negative actions by generating the appropriate notice of case action. BEM 220 (October 2018), p. 2. A notice of case action must specify the following: the action(s) being taken by the department; **the reason(s) for the action**; the specific manual item which cites the legal base for an action or the regulation or law itself; an explanation of the right to request a hearing; and the conditions under which benefits are continued if a hearing is requested. *Id.*, pp. 2-3.

In the present case, MDHHS failed to send Petitioner a Notice of Case Action with the proper reason for the CDC benefit denial. The notice additionally did not include the specific manual item corresponding to the reason for the action. The failure of MDHHS to provide proper notice justifies a redetermination of Petitioner's CDC eligibility along with proper notice. MDHHS will be ordered to redetermine Petitioner's CDC eligibility and to issue proper notice

It should be noted that an order to redetermine Petitioner's CDC eligibility does not justify an issuance of CDC benefits. Petitioner was entitled to receive the 45-day period of presumptive CDC benefits. Petitioner is not entitled to further benefit issuances until MDHHS approves her case. Petitioner is entitled to proper notice for whatever decision is made by MDHHS. If MDHHS eventually determines that Petitioner's income exceeds income limits. Petitioner's hearing rights would be unaffected as MDHHS would have to mail Petitioner a proper notice of denial.²

¹ CDC policy is not known to specify whether entry-level or exit-level income limits are applicable for determining ongoing CDC eligibility following presumptive eligibility. As a full eligibility determination had not previously been made, an entry-level income limit would arguably apply. As CDC benefits were already opened, exit-level income limits instead arguably apply instead.

² Clients have 90 days from the date of a written notice to request a hearing. BAM 600. Thus, Petitioner would still have a full 90 days from whatever date that MDHHS issues proper notice.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly denied CDC benefits to Petitioner. It is ordered that MDHHS begin to perform the following actions within 10 days of the date of mailing of this decision:

- (1) Redetermine Petitioner's CDC eligibility beginning December 23, 2018, subject to the finding that MDHHS failed to issue proper written notice of benefit denial; and
- (2) Issue a supplement of benefits, if any, improperly not issued.

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

CG/cg



Christian Gardocki

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

Via Email:

MDHHS-Ingham-Hearings
L. Brewer-Walraven
BSC2- Hearing Decisions
MAHS

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]