



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]
Date Mailed: October 8, 2019
MOAHR Docket No.: 19-008848
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: John Markey

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 October 3, 2019 from Detroit, Michigan. Petitioner appeared and represented himself. The Department of Health and Human Services (Department) was represented by Rolla Ley, Hearings Facilitatory, Jason Wernholm, Eligibility Specialist, and Lacey Whitford, Family Independence Manager. During the hearing, a 27-page packet of documents was offered and admitted into evidence as Exhibit A, pp. 1-27.

ISSUE

Did the Department properly deny Petitioner's July 29, 2019 application for Child Development and Care (CDC) benefits?

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 is the biological father to three children who live with Petitioner.
2. Two of the children were placed in Petitioner's home via the foster care system. Thus, the children are both Petitioner's biological children and his foster children.
3. On [REDACTED] 2019, Petitioner submitted to the Department an application for CDC benefits. Exhibit A, pp. 15-20.
4. On August 14, 2019, the Department issued to Petitioner a Notice of Case Action denying Petitioner's application for CDC benefits due to the Department's finding

that Petitioner's income exceeded the limit for program eligibility. Exhibit A, pp. 24-27.

5. On [REDACTED], 2019, Petitioner submitted to the Department a request for hearing objecting to the Department's denial of his CDC application.

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 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.

In this case, Petitioner's [REDACTED], 2019 application for CDC benefits for two of his three children was denied due to the Department's determination that Petitioner's income exceeded the limit for program eligibility. Petitioner conceded that if he was included in the program group, his income would result in the group's income exceeding the limit for program eligibility. However, Petitioner argued that he was improperly included in the group due to the two children being presently in the foster care system. Thus, Petitioner's position is that he is a foster parent, which would result in his income not being counted.

To determine eligibility for CDC benefits, the income of all program group members must be considered. BEM 525 (January 2017), p. 1. When CDC is requested for a child, each of the following persons who live together must be in the program group: (1) each child for whom care is requested; (2) each child's legal and/or biological parent(s) or stepparent(s); each child's unmarried, under age 18, sibling(s), stepsibling(s), or half sibling(s) and their parent(s); and any other unmarried child under age 18 whose parent, stepparent or legal guardian is a member of the program group. BEM 205 (October 2017), pp. 1-2.

In some circumstances, the applicant is not included in the program group. BEM 205, p. 2. The applicant is the person who signs the application and serves as primary contact with the Department. BEM 205 (October 2017), p. 2. The applicant must live with the child and can be a foster parent, parent, legal guardian, or one of a number of other individuals who has a certain type of relationship with the child. BEM 205, p. 2. Thus, a foster parent can be an applicant but is not a mandatory member of the program group. BEM 205, pp. 1-2.

Petitioner argues that because the children are foster children, Petitioner should not be included in the group because foster parent is not a mandatory group member. Petitioner is correct that his status as a foster parent does not compel his inclusion into the program group. However, Petitioner's status as the children's biological father does compel his inclusion into the program group.

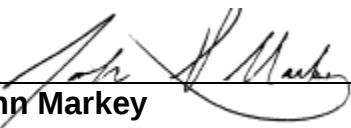
The Department properly included Petitioner into the program group. Consequently, Petitioner's income had to be counted in order to determine the group's eligibility for CDC benefits. During the hearing, Petitioner conceded that his income exceeded the limit for program eligibility if he was included in the group. The evidence supports that concession. Thus, as Petitioner is a mandatory group member and his income exceeds the limit for program eligibility, the Department properly denied Petitioner's application for CDC benefits.

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 [REDACTED], 2019 application for CDC benefits.

DECISION AND ORDER

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

JM/cg



John Markey
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 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 Email:

MDHHS-Isabella-Hearings
L. Brewer-Walraven
BSC2- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

[REDACTED]
[REDACTED]
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