



RICK SNYDER
GOVERNOR

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

SHELLY EDGERTON
DIRECTOR

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Date Mailed: October 4, 2018
MAHS Docket No.: 18-008988
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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, 2018, from Detroit, Michigan. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Christina Williams, Assistance Payments Worker and Hearings Facilitator.

ISSUE

Did the Department properly deny Petitioner's Child Development and Care (CDC) application?

Did the Department properly close Petitioner's Food Assistance Program (FAP) benefits case?

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 ██████████, 2018, the Department received Petitioner's application for CDC benefits listing herself and her son as household members.
2. On August 9, 2018, an interview was completed with Petitioner regarding her application during which time she noted employment with Aramark (Employer 1).

3. On the same day, the Department issued a Verification Checklist (VCL) to Petitioner for the FAP and CDC program requesting proof of CDC need and wages from her employment by August 13, 2018.
4. The Department timely received a paystub from Petitioner for Employer 1 for the pay period July 19, 2018, through August 1, 2018, with gross wages for the pay period of \$1,134.09 and year-to-date wages of \$2,058.86.
5. On August 24, 2018, the Department issued a Notice of Case Action denying Petitioner's application for CDC benefits from July 22, 2018, ongoing because her gross income exceeded the entry income limit for CDC and closed her FAP benefits because she failed to verify 30 days of her earned income as requested.
6. On [REDACTED], 2018, the Department received Petitioner's hearing request disputing the Department's decision to deny her CDC application and close her FAP case.

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).

Child Development and Care (CDC)

The 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.

Petitioner's CDC application was denied because the Department believes she had income greater than the CDC entry limit.

The goal of the CDC program is to support low-income families by providing access to high-quality, affordable, and accessible early learning and development opportunities and to assist the family in achieving economic independence and self-sufficiency. BEM 703 (July 2018), p. 1. The program provides a subsidy for child care services for qualifying families. *Id.* All groups must be income eligible unless the group is in children's protective services, foster care, has a Family Independence Program (FIP)-related case, are migrant farmworkers, or is homeless. BEM 703, p. 13-14. Eligibility based upon income considers group size and non-excluded income received by any member of the group. BEM 703, p. 16. In order to enter the CDC program, the family's

gross monthly income cannot exceed the Maximum Monthly Income by Family Size associated with the program entry limit. *Id.* The Maximum Monthly Gross Income for a Family Size of two is \$1,759.00. RFT 230 (July 2018), pp. 1-2.

Petitioner has employment income from Employer 1. CDC income budgeting requires consideration of the gross countable monthly income to determine eligibility. BEM 525 (January 2017), p. 1. A group's financial eligibility and monthly benefit amount are determined using actual income and prospected income (not received but expected. BEM 505 (October 2017), p. 1. For non-child support income, the Department uses 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. 6. The Department then must determine a standard monthly amount. BEM 505, pp. 8-9. For wages received on a weekly basis, the average of the income is multiplied by 4.3. *Id.* For wages received bi-weekly, the average is multiplied by 2.15. *Id.* Finally, for wages received twice per month, the amounts are added together. *Id.*

Petitioner provided the Department with a pay stub showing that Petitioner had earned income for a two week period totaling \$1,134.09. It also showed that she had year-to-date wages of \$2,058.86. Based upon this information, Petitioner is paid bi-weekly and her standardized income is \$2,213.27. While this calculated income is approximately \$453.00 less than the income calculated by the Department, the income is still greater than the Maximum Monthly Gross Income limit of \$1,759.00 for a group size of two. Therefore, the Department properly denied Petitioner's application for CDC benefits.

Food Assistance Program (FAP)

The 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.

Petitioner's FAP case was closed based upon a failure to verify her employment income as requested.

Income is considered in the determination of eligibility for the FAP. BEM 500 (July 2017), p. 1. Since income eligibility is considered, income must be verified at application, redetermination, or upon a reported change. BAM 130 (April 2017), p. 1. The Department should advise the client of what verification is required, how to obtain it, and the due date, typically using a VCL. BAM 130, p. 3. In FAP cases, the Department is required to provide the client with 10 calendar days to return the requested verification. BAM 130, p. 7. A negative action notice is sent when the client indicates a refusal to provide the verification or the time period given has elapsed but the client has not made a reasonable effort to provide it. *Id.* No extensions are provided for FAP cases. *Id.*

The Department requested proof of 30 days of wages from Petitioner due by August 13, 2018, because Petitioner reported a change in income at her interview. Petitioner provided the Department with one pay stub covering the period from July 19, 2018, through August 1, 2018. This paystub does not cover a 30-day period. Petitioner clearly had wages from a prior pay period because she had year-to-date wages greater than her wages for the pay period. Petitioner was unaware that her paystubs were posted online and when she requested paystubs from her employer, the paystub provided to the Department was the only paystub she received. She did not become aware of the availability of her paystubs online until it was too late. Since Petitioner was informed of the need for 30-days of pay stubs and because she clearly had wages from a prior period, she needed to request a full 30 days of paystubs from her employer or proof that she had no wages from the previous pay period covered by the 30 day lookback. Therefore, the Department acted in accordance with policy when it closed Petitioner's FAP case.

It should be noted that since the Department did not receive 30-days of paystubs, the Department should not have made a determination on Petitioner's eligibility for CDC benefits based upon income. The same 30-day requirement applies in both CDC and FAP cases as discussed above. However, because the result is the same, a denial of CDC benefits based upon Petitioner's application, the Department's error has no effect on the outcome of this decision.

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 and closed her FAP case.

DECISION AND ORDER

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

AM/cg



Amanda M. T. Marler
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) 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-Wayne-18-Hearings
M. Holden
L. Brewer-Walraven
BSC4- Hearing Decisions
MAHS

Petitioner – Via First-Class Mail:

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