



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: July 19, 2019  
MOAHR Docket No.: 19-006469  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Ellen McLemore**

### **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 July 18, 2019, from Detroit, Michigan. Petitioner was present and represented herself. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearing Facilitator.

### **ISSUE**

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

### **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 [REDACTED], 2019, Petitioner submitted an application for CDC benefits (Exhibit A, pp. 22-29).
2. Petitioner had income from employment (Exhibit A, pp. 16-18).
3. Petitioner's group consisted of herself and her minor child.
4. On June 10, 2019, the Department sent Petitioner a Notice of Case Action (NOCA) informing her that her CDC benefit application was denied (Exhibit A, pp. 6-7).

5. On June 17, 2019, Petitioner submitted a request for hearing disputing the Department's decisions related to her CDC, Food Assistance Program (FAP) and her child's Medical Assistance (MA) benefit cases.

### **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).

#### **FAP and MA**

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 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.

The hearing was requested, in part, to dispute the Department's actions taken with respect to Petitioner's FAP and Petitioner's child's MA program benefits. Shortly after commencement of the hearing, Petitioner testified that she did not wish to proceed with the hearing related to her FAP and MA benefits. The Request for Hearing was withdrawn. The Department agreed to the dismissal of the hearing request.

Pursuant to the withdrawal of the hearing request filed in this matter, the Request for Hearing related to Petitioner's FAP and MA benefits is **DISMISSED**.

#### **CDC**

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 submitted an application for CDC benefits on May 13, 2019. The Department determined Petitioner exceeded the income limit for CDC eligibility. As a result, the Department sent Petitioner a NOCA informing her that her application for CDC benefits was denied on June 10, 2019.

Eligibility for CDC is based on program group size and non-excluded income received by any member of the group. BEM 703 (January 2018), p. 16. To be eligible for the Child Development and Care (CDC) program at application, a family's gross monthly income must not exceed the maximum monthly gross income limit by family size associated with the program entry limit (\$15 family contribution category). RFT 270 (October 2017), p. 1. After initial eligibility has been determined, a family's income must not exceed the maximum monthly gross income eligibility limit by family size associated with the \$90 family contribution category. RFT 270, p. 1.

Petitioner lived with her minor child. Therefore, Petitioner's has a CDC group size of 2. BEM 205, pp.1-2. The income limit at entry for a group size of 2 is \$1,759. The Department presented two budgets using a 30-day time period and 60-day time period for Petitioner's earned income to establish that she exceeded the income limit for CDC benefits (Exhibit A, pp. 8-9).

All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits. Group composition policies specify whose income is countable. BEM 500 (January 2016), pp. 1-5. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (April 2017), pp. 1-2. In prospecting income, the Department is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, pp. 5-6. A standard monthly amount must be determined for each income source used in the budget. BEM 505, pp. 7-8. Income received biweekly is converted to a standard amount by multiplying the average of the biweekly pay amounts by the 2.15 multiplier. Income received weekly is converted to a standard amount by multiplying the average of the weekly pay amounts by the 4.3 multiplier. BEM 505, pp. 7-9. An employee's wages include salaries, tips, commissions, bonuses, severance pay and flexible benefit funds not used to purchase insurance. BEM 501 (July 2017), p. 6. The Department counts gross wages in the calculation of earned income. BEM 501, p. 7.

According to the budgets provided, the Department made two different calculations based on Petitioner's income for a 30-day period and a 60-day period. The Department presented one budget where Petitioner's income was determined to be \$1,825 per month and a second budget where Petitioner's income was determined to be \$2,005 per month. The Department also presented the Work Number report for Petitioner's

income from employment (Exhibit A, pp. 16-18). The Department was unclear as to which figures it used to calculate Petitioner's income.

When reviewing the work number, prior to the application date of [REDACTED], 2019, Petitioner received a payment on May 10, 2019, in the gross amount of \$487.50; on May 3, 2019, in the gross amount of \$487.50; April 26, 2019, in the gross amount of \$492.25; and April 19, 2019, in the gross amount of \$589.07. Petitioner was paid weekly. When averaging those figures and multiplying by the 4.3 multiplier it results in a standard monthly amount of \$2,210.54.

Petitioner argued that at the time of the application, she was working overtime hours. Petitioner testified that 32 hours per week is considered full-time and she receives overtime for any additional hours worked. When reviewing the Work Number, Petitioner's hours have well exceeded 32 hours per week dating back to September 7, 2018. When averaging any 30, 60 or 90 day pay period on the Work Number, Petitioner's income well exceeds the income limit for her group size.

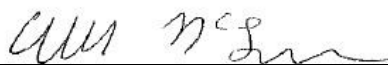
Petitioner also argued that she is currently only working 32 hours per week and is receiving no overtime pay. Per policy, the Department is to use income for the 30 days previous to the application. Therefore, Petitioner's income at the time of hearing is not relevant. Petitioner was advised that she can submit a new application for CDC benefits based on her current circumstances. As such, the Department acted in accordance with policy when it denied Petitioner's CDC benefit application.

### **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 benefit application. Accordingly, the Department's decision is **AFFIRMED**.

The Request for Hearing related to Petitioner's FAP and MA benefits is **DISMISSED**.

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**Ellen McLemore**  
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-Wayne-19-Hearings  
M. Holden  
D. Sweeney  
D. Smith  
EQAD  
L. Brewer- Walraven  
BSC4- Hearing Decisions  
MOAHR

**Petitioner –**  
**Via First-Class Mail:**

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