



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED], MI [REDACTED]

Date Mailed: May 31, 2019
MOAHR Docket No.: 19-004242
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, telephone hearing was held on May 23, 2019, from Lansing, Michigan. Petitioner represented herself. The Department was represented by Valarie Foley.

ISSUE

Did the Department of Health and Human Services (Department) properly close Petitioner's Food Assistance Program (FAP) and 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. On March 12, 2019, Petitioner reported changes of employment status for members of the household. Exhibit A, pp 1-3.
2. Petitioner reported that she started a job on February 25, 2019, and expected to work 3 hours per week at a rate of \$10.50 per hour. The Department received verification that in March of 2019, Petitioner received earned income from that employer in the gross monthly amount of \$273.01. Exhibit A, p 1 and 4-5.
3. Petitioner reported that a member of her household had started a job on December 5, 2018, and expected to work 20 hours per week at a rate of \$10.25 per hour. The Department received verification that earned income in the gross amount of \$659.89 was received in March of 2019. Exhibit A, p 1 and 2-15.

4. Petitioner reported that she expected to work fewer hours with another employer but expected to work 7 hours per week at a rate of \$20 per hour. No verification of this reduction of work hours was received by the Department. Exhibit A, pp 1-2.
5. Petitioner reported that a member of her household expected to work 20 hours per week at a rate of \$10.50 per hour. The Department received verification that gross earnings over the prior 30 days of verified earned income were in the gross monthly amount of \$662.50. Exhibit A, pp 2, 8-11.
6. On March 22, 2019, Petitioner reported that she started employment on March 12, 2019, and expected to receive \$16,000 per year. The Department received verification that Petitioner received earned income from this employer in the gross monthly amount of \$1,000 on March 29, 2019, but that she would receive \$667 in the future. Exhibit A, p 3.
7. On April 5, 2018, the Department notified Petitioner that she was no longer eligible for Child Development and Care (CDC) and Food Assistance Program (FAP) benefits. Exhibit A, pp 16-18.
8. On April 25, 2019, the Department received Petitioner's request for a hearing.

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.

All earned and unearned income available is countable unless excluded by policy. Earned income means income received from another person or organization or from self-employment for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The

amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. Department of Human Services Bridges Eligibility Manual (BEM) 500 (July 1, 2017).

All income is converted to a standard monthly amount. If the client is paid weekly, the Department multiplies the average weekly amount by 4.3. If the client is paid every other week, the Department multiplies the average bi-weekly amount by 2.15. Department of Human Services Bridges Eligibility Manual (BEM) 505 (October 1, 2017), pp 7-8.

Petitioner was an ongoing FAP recipient when the Department received changes to the amount of earned income from employment the members of her household expected to receive. Petitioner's household of four would be expected to receive a prospective gross monthly income of \$3,855.28, which was determined by multiplying the expected gross weekly amounts by the 4.3 conversion factor and dividing the annual salary by 12 months. Based on the actual income received within Petitioner's household, the household received a gross monthly income of \$3,560 in March of 2019, which was determined by converting the actual paychecks received to prospective monthly amounts.

The notice of case action indicates a group size of two, but the Department's representative testified that the group size should be four.

The income limit for a group of four to receive FAP benefits is \$2,730, and Petitioner has failed to establish that she is eligible for FAP benefits based on income received in March of 2019.

The income limit for an ongoing group of four to receive CDC benefits is \$5,601. The Department has failed to establish that Petitioner is ineligible for any CDC benefits based on household income.

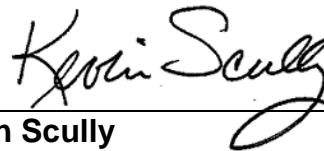
The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it closed Petitioner's Food Assistance Program (FAP) benefits and did not act in accordance with Department policy when it closed Petitioner's Child Development and Care (CDC) benefits.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED** with respect to the Food Assistance Program (FAP) and **REVERSED** with respect to the Child Development and Care (CDC) program.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

Initiate a determination of the Petitioner's eligibility for Child Development and Care (CDC) as of April 28, 2019.



KS/dh

Kevin Scully
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 Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

Susan Noel
26355 Michigan Ave.
Inkster, MI 48141

Wayne County (District 19), DHHS

BSC4 via electronic mail

EQAD via electronic mail

D. Smith via electronic mail

M. Holden via electronic mail

D. Sweeney via electronic mail

L. Brewer-Walraven via electronic mail

Petitioner

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