



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: September 12, 2019
MOAHR Docket No.: 19-008613
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jacquelyn A. McClinton

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 September 5, 2019, from Detroit, Michigan. Petitioner represented herself at the hearing. The Department of Health and Human Services (Department) failed to appear at the hearing.

ISSUE

Did the Department properly deny Petitioner's July 3, 2019 application for Child Development and Care (CDC) benefits?

Did the Department properly reduce Petitioner's Food Assistance Program (FAP) benefits effective September 1, 2019?

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 applied for CDC benefits on July 3, 2019 following the birth of her son and her subsequent return to work from maternity leave.
2. At the time of her application for CDC benefits, Petitioner was an ongoing recipient of FAP benefits.
3. On July 25, 2019, the Department sent Petitioner a Notice of Case Action which notified Petitioner that her application for CDC benefits had been denied and that

her FAP benefits would be reduced to \$240.00 per month effective September 1, 2019.

4. On [REDACTED] 2019, Petitioner filed a Request for Hearing disputing the Department's actions.

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.

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, the Department failed to appear at the hearing. Petitioner requested a hearing after she received a Notice of Case Action dated July 25, 2019, which notified her that her application for CDC benefits had been denied and that her FAP benefits had been decreased.

Petitioner testified that she recently returned to work from maternity leave. Petitioner's son is four months old. Petitioner confirmed that she was employed and in need of childcare. It appears that the Department denied Petitioner for CDC benefits due to excess income and reduced Petitioner's FAP benefits as her income increased once she returned to work from maternity leave.

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). BEM 525 (January 2017), p. 1. The maximum monthly gross income limit allowed to be eligible for CDC benefits with a group size of two is \$1,759.00. RFT 270 (March 2019), p.1.

In the Notice of Case Action, the Department determined that Petitioner was eligible for FAP benefits in the amount of \$240.00 per month. Petitioner has a group size of two. To be eligible for FAP benefits in the amount of \$240.00 per month, the household net income would be between \$374.00 and \$376.00 per month. RFT 260 (October 2018), p. 6.

The Department failed to appear at the hearing. As such, the Department failed to establish the basis for the denial of Petitioner's application for CDC benefits and the reduction of Petitioner's FAP 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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner's application for CDC benefits and decreased Petitioner's FAP benefits effective September 1, 2019.

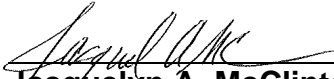
DECISION AND ORDER

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

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:

1. Reregister and reprocess Petitioner's July 3, 2019 application for CDC benefits
2. If Petitioner was eligible for CDC supplements, issue CDC supplements Petitioner was eligible to receive but did not relating to her July 3, 2019 application.
3. Redetermine Petitioner's eligibility for FAP benefits effective September 1, 2019;
4. If Petitioner was eligible for FAP supplements, issue FAP supplements Petitioner was eligible to receive but did not effective September 1, 2019; and
5. Notify Petitioner in writing of its decision.

JAM/tlf



Jacquelyn A. McClinton
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-Ingham-Hearings
BSC2 Hearing Decisions
[REDACTED]
[REDACTED]
[REDACTED]
MOAHR

Petitioner – Via First-Class Mail:

[REDACTED]
[REDACTED]
[REDACTED]