



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR



Date Mailed: October 10, 2019  
MOAHR Docket No.: 19-009030  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE:** Christian Gardocki

### **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 2, 2019, from Detroit, Michigan. Petitioner appeared and was unrepresented. [REDACTED], Petitioner's daughter (hereinafter, "Daughter") testified on behalf of Petitioner. The Michigan Department of Health and Human Services (MDHHS) was represented by Lisa Young, manager, and Makala Williams, specialist.

### **ISSUE**

The issue is whether MDHHS properly denied Petitioner's application for Child and Development 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 [REDACTED], 2019, Petitioner submitted to MDHHS an application requesting CDC benefits. Petitioner reported a household that included Daughter (who is 22 years old), Ferris (Petitioner's 16-year-old son), and Jawon (Petitioner's grandchild and Daughter's minor child). Petitioner's application requested CDC benefits only for herself and her grandchild.
2. On July 31, 2019, MDHHS denied Petitioner's CDC application due to Petitioner's lack of need and/or Petitioner not acting as a caretaker for a minor child.

3. On August 9, 2019, Petitioner requested a hearing to dispute the denial of CDC benefits. Petitioner also requested a hearing to dispute a denial of State Emergency Relief (SER) and a Medicaid dispute. Exhibit A, pp. 3-6.
4. On October 2, 2019, Petitioner verbally withdrew her dispute concerning SER and Medicaid.

### **CONCLUSIONS OF LAW**

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

The State Emergency Relief (SER) program is established by the Social Welfare Act, MCL 400.1-.119b. The SER program is administered by the Department (formerly known as the Department of Human Services) pursuant to MCL 400.10 and Mich Admin Code, R 400.7001-.7049. MDHHS policies are contained in the Emergency Relief Manual (ERM).

Petitioner requested a hearing to dispute a denial of SER and Medicaid eligibility. During the hearing, Petitioner stated that she no longer needed a hearing for SER or Medicaid. MDHHS had no objection to Petitioner's withdrawal. Based on Petitioner's partial withdrawal of her hearing request, her disputes of SER and Medicaid will be dismissed.

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. MDHHS policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner also requested a hearing to dispute CDC eligibility. Petitioner testified that she applied multiple times for CDC and wanted a hearing for all denied and unprocessed applications. MDHHS responded that Petitioner had but one relevant application for CDC benefits. MDHHS presented Petitioner's CDC application dated July 2, 2019. Exhibit A, pp. 12-19. MDHHS further stated that a check of its database revealed no

other relevant CDC applications; MDHHS' testimony was credible and consistent with Petitioner's written hearing request which stated, "The things... [MDHHS is ] trying to address is the childcare application and that first one was denied." Petitioner's hearing request later referenced a CDC application in [REDACTED] 2019. Given the evidence, Petitioner's hearing request is interpreted as a dispute over the processing of her application dated July 2, 2019.

Petitioner testified that that MDHHS took no action on her CDC application dated [REDACTED], 2019. Petitioner's testimony contradicted a Notice of Case Action dated July 31, 2019, stating that MDHHS denied Petitioner's application. The notice established that MDHHS processed and denied Petitioner's application. Though Petitioner was mistaken in her belief that her CDC application was not processed, the evaluation will proceed to determine if MDHHS properly denied Petitioner's application. The notice stated that MDHSH denied the application because Petitioner had no need reason for CDC benefits and/or Petitioner was not a caretaker to a dependent child.

At application, eligibility for CDC services exists when all of the following is established:

- There is a signed application and a request for CDC services.
- Each child for whom CDC is requested is a member of a valid eligibility group.
- Each P/SP meets the need criteria as outlined in this item.
- All eligibility requirements are met. BEM 703 (March 2019), p. 2.

At application, each parent/substitute parents (P/SP) must demonstrate a valid need reason. *Id.*, p. 4. This section specifies who must demonstrate those valid need reasons. P/SPs are often the same for all the children in the family. However, there are some homes where the children may not all share the same P/SP. Therefore, P/SPs must be identified separately for each child for whom CDC is requested. P/SP means the following person(s) who live in the home and are unavailable to care for the child due to a valid need reason:

- The child's legal or biological parent(s).
- The child's stepparent.
- The child's foster parent(s).
- The child's legal guardian(s).
- The applicant/client, if:
  - The child has no parent, stepparent or legal guardian who lives in the home.
  - The child's only P/SP that lives in the home is excluded from providing the care. BEM 703 (March 2019) p. 4.

Petitioner's application only sought CDC for herself and grandchild. Petitioner's application also reported a household that included her [REDACTED]-year-old daughter and minor grandchild. It was not disputed that Petitioner's adult daughter, Daughter, who lived with Petitioner was the primary caretaker for Petitioner's grandchild. Petitioner is not a parent or substitute parent for purposes of her grandchild's CDC eligibility. As a non-P/SP to her grandchild, Petitioner is ineligible to receive CDC benefits.

In response to MDHHS' claim that Petitioner was not a P/SP to her grandchild, Petitioner testified that MDHHS mischaracterized her CDC application. Petitioner testified that she did not sign the application and that Daughter was the person for whom CDC benefits were sought. Petitioner's testimony was contradicted by her application which verified that Petitioner signed the application as an applicant and that benefits were sought only for her and her grandchild. Petitioner may have intended to apply for CDC on behalf of Daughter, but her application implies no such intent.

As Petitioner applied for CDC as a non-P/SP, MDHHS properly denied Petitioner's CDC application. An analysis of whether MDHHS also properly denied Petitioner's application due to a lack-of-need reason need not be undertaken. As advised by MDHHS during the hearing, if Daughter needs CDC benefits, she is encouraged to complete an application requesting them.

### **DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that Petitioner withdrew her dispute concerning SER and Medicaid eligibility. Concerning SER and Medicaid eligibility, Petitioner's hearing request is **DISMISSED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly denied Petitioner's CDC application dated [REDACTED], 2019. The actions taken by MDHHS are **AFFIRMED**.

CG/jaf



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**Christian Gardocki**

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

**DHHS** (via electronic mail)

Tara Roland 82-17  
MDHHS-Wayne-17-Hearings  
BSC4  
L Brewer-Walraven

**Petitioner** (via first class mail)

 MI