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GOVERNOR

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

ORLENE HAWKS
DIRECTOR



Date Mailed: March 10, 2020
MOAHR Docket No.: 20-000465
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 March 4, 2020, from Detroit, Michigan. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Stephanie Sher, specialist, and Jeffrey Robinson, manager.

ISSUE

The issue is whether MDHHS properly terminated Petitioner's Child Development and Care (CDC) eligibility due to excess income.

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. As of August 2019, Petitioner was an ongoing CDC recipient with a benefit period certified through an unspecified date in or near September 2019.
2. As of August 2019, Petitioner's household included her spouse (hereinafter, "Spouse") and two minor children. Petitioner and Spouse were both employed.
3. On an unspecified date, Petitioner submitted documentation to MDHHS of her gross biweekly wages and pay dates: \$528.50 on September 30, 2019, and \$572.50 on October 14, 2019. Petitioner also submitted documentation of Spouse's gross biweekly wages and pay dates: \$2,429.18 on [REDACTED] 2019, and \$2,361.48, on [REDACTED] 2019.

4. On October 18, 2019, MDHHS determined that Petitioner was ineligible for CDC beginning October 27, 2019, due to excess income. MDHHS calculated Petitioner's gross income to be \$6,390.
5. On January 15, 2020, Petitioner requested a hearing to dispute the termination of CDC benefits

CONCLUSIONS OF LAW

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 requested a hearing to dispute a termination of CDC eligibility. Exhibit A, pp. 4-5. A Notice of Case Action dated October 18, 2019, stated that Petitioner's CDC eligibility would end after October 26, 2019 for two reasons: a lack of need and excess income. MDHHS testimony acknowledged that the only proper basis for CDC termination was excess income.

There are five types of CDC eligibility groups for which an income determination is not made: those involved with Children's Protective Services, foster care, Family Independence Program recipients, migrant farmworkers, homeless. BEM 703 (July 2017) p. 13. If a client's CDC group does not meet one of these groups, then the group may be eligible for CDC benefits, subject to a determination of income.

There was no evidence that Petitioner's group qualified for CDC under an eligibility group for which income-eligibility was waived. Thus, Petitioner is left to qualify for CDC benefits based on an income determination.

Income-eligibility for CDC is based on group size and non-excluded income received by any member of the program group. *Id.*, p. 15. 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.* Income eligible families may have a co-payment amount called a family contribution. *Id.* CDC eligibility ends when the group's income exceeds the income eligibility scale in RFT 270. *Id.*

For CDC benefits, MDHHS generally counts gross wages.¹ BEM 501 (July 2017), p. 7. For non-child support income, MDHHS uses past income to project a FAP group's income. BEM 505 (October 2017), p. 5. Biweekly income is converted to a monthly amount by multiplying the average income by 2.15. *Id.*, p. 8. MDHHS is to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month. *Id.*, p. 6.

For purposes of CDC eligibility, MDHHS calculated Petitioner's group's income to be \$6,390. Exhibit A, p. 11. In determining Petitioner's group's income, MDHHS relied on income documents submitted by Petitioner on or near ██████████ 2019. Petitioner's documents verified gross biweekly wages and pay dates for herself and Spouse from the past 30 days. Gross biweekly pays for Petitioner of \$582.50 and \$572.50 were verified. Spouse's pays of \$2,429.18 and \$2,361.48 were also verified. Calculating Petitioner's and Spouse's average pay and multiplying each average pay by 2.15 results in countable incomes of \$1,241.63 and \$5,149.96, respectively. Adding the income results in a total income of \$6,390 (rounding down to nearest dollar).

For a group size of 4 persons, the highest income limit (i.e. the income limit with the highest family contributions) is \$5,601. Petitioner's group's income exceeded the highest income limit for her group size.

Petitioner's testimony emphasized that MDHHS terminated her CDC benefits in September before reinstating them for one month. A temporary reinstatement of CDC benefits had no impact on whether MDHHS later properly determined Petitioner's income-eligibility for CDC

Petitioner also contended that MDHHS erred by not factoring her and Spouse's income from July 2019 or August 2019. Petitioner's contention was based on a belief that MDHHS projected Petitioner's group's income using Spouse's pays which included overtime that he no longer receives. In fact, Spouse's pay of \$2,713.54 from August 23, 2019, was higher than the pays which were factored by MDHHS.


Given the evidence, MDHHS properly calculated Petitioner's group's income to be \$6,390. MDHHS further properly determined that Petitioner's group's income exceeded the income limit for CDC benefits. Thus, MDHHS properly terminated Petitioner's CDC eligibility beginning October 27, 2019.

¹ Exceptions to using gross wages include the following: earned income tax credits, flexible benefits, striker earnings, student disregards, and census worker earnings. BEM 501 (July 2017), p. 7. None of these exceptions apply to the present case.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly terminated Petitioner CDC eligibility beginning October 27, 2019. The actions taken by MDHHS are **AFFIRMED**.

CG/cg



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

Via Email:

MDHHS-Oakland-3-Hearings
L. Brewer-Walraven
BSC4- Hearing Decisions
MOAHR

Petitioner – Via First-Class Mail:

