



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], MI [REDACTED]

Date Mailed: November 13, 2020
MOAHR Docket No.: 20-006195
Agency No.: [REDACTED]
Petitioner: [REDACTED] [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, a telephone hearing was held on October 29, 2020. Petitioner was represented by herself. The Department was represented by Michelle Morely.

ISSUE

Did the Department of Health and Human Services (Department) properly close Petitioner's 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. Petitioner was an ongoing Child Development and Care (CDC) recipient as a benefit group of eight when the Department received her Redetermination (DHS-1010) form on July 27, 2020. Exhibit A, p 21.
2. Petitioner receives monthly earned income from employment in the gross monthly amount of \$ [REDACTED]
3. The Department determined that members of Petitioner's household receive monthly Retirement, Survivors, and Disability Insurance (RSDI) in the gross monthly amount of \$760. Exhibit A, p 10.
4. The Department determined that Petitioner receives adoption subsidies in the gross monthly amount of \$ [REDACTED] Exhibit A, pp 14-15.
5. On September 1, 2020, the Department notified Petitioner that she was not eligible for Child Development and Care (CDC) benefits as of September 27, 2020. Exhibit A, pp 5-9.

6. On September 14, 2020, the Department received Petitioner's request for a hearing protesting the closure of Child Development and Care (CDC) benefits. Exhibit A, pp 3-4.

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 Child Development and Care (CDC) program is established by Titles IV-A, IV-E, and XX of the Social Security Act, 42 USC 601 through 42 USC 619, 42 USC 670 through 42 USC 679c, and 42 USC 1397 through 42 USC 1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9857 through 42 USC 9858r; and 42 USC 618 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The CDC program is implemented by 45 CFR 98.1 through 45 CFR 99.33. The Department administers the CDC program pursuant to MCL 400.10 of the Social Welfare Act, MCL 400.1 *et seq.*, and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001 through 400.5020.

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).

An adoption subsidy that is a payment for ongoing care and support of the child meets the Department's definition of countable unearned income. Department of Health and Human Services Bridges Eligibility Manual (BEM) 503 (September 1, 2020), pp 2-3.

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.

The income limit for a group of eight to remain eligible for CDC benefits is \$8,767 per month. Department of Health and Human Services Reference Table Manual (RFT) 270 (October 1, 2020), p 1.

The Department initiated a routine review of Petitioner's eligibility for ongoing CDC benefits and determined that Petitioner's total gross monthly income exceeded the income limit for her to remain eligible for benefits. On September 1, 2020, the Department notified Petitioner that she would not be eligible for any CDC benefits after September 27, 2020.

Petitioner argued that the Department improperly determined her earned income from employment.

However, the Department determined Petitioner's prospective earned income by converting her actual gross weekly income to a prospective gross monthly income by multiplying her average weekly income by the 4.3 conversion factor as directed by BEM 505. Petitioner failed to establish that the Department improperly determined her gross monthly earned income.

Petitioner argued that the Department improperly determined the amount of RSDI benefits received by members of her benefit group.

The hearing record does not establish that the Department properly determined the gross monthly amount of RSDI benefits receiving within Petitioner's household. The Department's evidence suggests that the Department underestimated the amount of RSDI benefits being received. Petitioner failed to establish that she is eligible for CDC benefits based on the fact that more income is being received in her household than the Department recognized.

Petitioner argued that she was unaware that adoption subsidies would affect her eligibility for CDC benefits.


However, whether Petitioner was notified that adoption subsidy fits the Department's definition of countable unearned income is not relevant here. The issue here is whether Petitioner is eligible for CDC benefits. Adoption subsidies are countable income as defined in BEM 403. The Department presented substantial evidence that Petitioner's gross monthly income exceeds the income guidelines in RFT 270, and Petitioner failed to establish that she is eligible for any CDC 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 properly closed Petitioner's Child Development and Care (CDC) benefits based on the countable gross monthly income being received within the benefit group.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/nr



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 Office of Administrative Hearings and Rules
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-8139

DHHS

Angela Neubecker
444 E. Houghton
West Branch, MI
48661

Ogemaw County DHHS (GR8North-
Hearings@michigan.gov)- via electronic
mail

BSC1- via electronic mail

L. Brewer-Walraven- via electronic mail

Petitioner

████████████████████ - via first class mail
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████████████████████, MI
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