



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: March 17, 2021  
MOAHR Docket No.: 20-007849  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun**

### **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 8, 2021, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Jeffrey Robinson, Family Independence Manager.

### **ISSUE**

Did the Department properly deny Petitioner's application for 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 previously a recipient of CDC benefits and was approved based on her employment as a need reason.
2. In connection with a redetermination, Petitioner's eligibility for CDC benefits was reviewed.
3. On August 5, 2020, the Department sent Petitioner a Quick Note informing her that because she was no longer working at the time, the Department could not approve her ongoing CDC benefits. She was instructed to reapply when her employment began again, and the Department would determine her eligibility at that time. (Exhibit A, p.46)
4. On August 5, 2020, the Department sent Petitioner a Notice of Case Action advising her that effective September 13, 2020 ongoing, her CDC case would be

closed because the group is not eligible as the parent does not have a need for child day care services due to employment, education, or family preservation reasons. (Exhibit A, pp. 42 – 45)

5. On or around [REDACTED], 2020, Petitioner submitted a new application for CDC benefits and identified her employment as a need reason. On the application, Petitioner reported that she is employed for average of 40 hours per week, that she is paid \$[REDACTED] per hour, and that she receives weekly pay. (Exhibit A, pp. 47 – 54)
6. Petitioner's household consists of herself and four minor children, two of whom require child day care services.
7. On December 3, 2020, the Department sent Petitioner a Notice of Case Action advising her that her application for CDC benefits was denied because her household's gross income exceeded the entry limit for the CDC program. (Exhibit A, pp. 68 – 74)
8. On or around December 11, 2020, Petitioner requested a hearing disputing the Department's actions with respect to her CDC case. (Exhibit A, pp. 3-5)

### **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 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.

Petitioner requested a hearing disputing the Department's actions with respect to her CDC case. Petitioner raised concerns with respect to the August 5, 2020 Notice of Case Action advising her of the case closure effective September 13, 2020. Although Petitioner did not dispute that she was not employed at the time of the redetermination or at the time the Notice of Case Action was issued, there was no evidence that Petitioner requested a hearing to dispute the case closure prior to December 11, 2020. BAM 600 (January 2020), pp. 6-7 provides that a request for hearing must be received in the Department local office within 90 days of the date of the written notice of case action. Petitioner confirmed being aware that her case was closed and there was no evidence to indicate that Petitioner did not receive a copy of the August 5, 2020 Notice

of Case Action. A review of the Notice of Case Action shows that Petitioner was advised of her hearing rights and the requirement that the Department receive her request for appeal within 90 days or on or before November 4, 2020, otherwise her hearing request would not be granted. Therefore, because Petitioner's December 11, 2020 hearing request was not timely filed within 90 days of the August 5, 2020 Notice of Case Action, the closure of her CDC case cannot be addressed with this Hearing Decision. The hearing proceeded with respect to the denial of Petitioner's [REDACTED], 2020 application for CDC benefits.

In this case, the Department denied Petitioner's CDC application, finding that her gross income exceeded the entry limit for CDC program eligibility. The goal of the CDC program is to support low-income families by providing access to high-quality, affordable, and accessible early learning and development opportunities and to assist the family in achieving economic independence and self-sufficiency. BEM 703 (May 2020), p. 1. At application, eligibility for CDC services exists when the Department has established all of the following: 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 parent meets the need criteria (family preservation, high school completion, an approved activity, or employment); and all other eligibility requirements are met. BEM 703, pp. 1-5. Groups who are not categorically eligible for CDC benefits (based on protective services, foster care, FIP related situations, migrant farmworkers, or homeless) may be eligible for CDC if they pass the income eligibility test. BEM 703, pp. 13-17.

To be eligible for the CDC program at application, a program group's countable 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 703, pp. 15-17. After initial income eligibility is determined, a family's income must not exceed the maximum gross monthly income eligibility limit by family size associated with the program exit limit. CDC eligibility ends when the group's income exceeds the income eligibility scale. Income eligibility is based on program group size and non-excluded income received by any member of the program group. For income limit and family contribution amounts, see RFT 270. BEM 703, pp. 16-17.

Petitioner's household is considered an income eligible group and consists of Petitioner and four minor children. For a five-member CDC group, the gross monthly income entry limit at the time of Petitioner's [REDACTED], 2020 application was \$[REDACTED]. RFT 270 (October 2020), p. 1. Thus, Petitioner will be eligible for CDC services if her household's countable income at application does not exceed \$[REDACTED].

The Department testified that in calculating the household's gross income of \$[REDACTED], it considered Petitioner's earnings from employment as reflected on the application and confirmed through paystubs submitted, as well as unearned income from child support. Specifically, the Department considered the following weekly pay amounts: \$[REDACTED] paid on October 30, 2020, \$[REDACTED] paid on November 6, 2020, \$[REDACTED] paid on November 13, 2020 and \$[REDACTED] paid on November 20, 2020. Because the Department is required to

prospectively budget income and convert earnings to a standard monthly amount per BEM 505 and BEM 525, the Department testified that it multiplied the average of Petitioner's weekly earnings by the standard multiplier of 4.3 to conclude that Petitioner had monthly earned income of \$[REDACTED]. See BEM 505 (October 2017), pp. 1-6. The Department testified that it also considered \$[REDACTED] in unearned income from child support for one of Petitioner's minor children, specifically taking the three-month average of monthly child support payments of \$0 dollars in October 2020, \$[REDACTED] in September 2020 and \$[REDACTED] in August 2020. Petitioner confirmed that she is employed and has earnings in the amounts relied upon by the Department. She also confirmed that the amount of child support considered was correct. The Department presented the paystubs relied upon and a child support search in support of the income calculations.


Upon review, the \$[REDACTED] total of Petitioner's earned income (\$[REDACTED]) and the unearned income from child support (\$[REDACTED]) exceed the \$3,324 entry income limit for a five-member CDC group. Therefore, upon review, Petitioner's gross monthly household income was in excess of the income limit for CDC eligibility at application.

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 denied Petitioner's CDC application due to excess income.

**DECISION AND ORDER**

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

ZB/jem

  
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**Zainab A. Baydoun**  
Administrative Law Judge  
for Elizabeth Hertel, 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-6303-Hearings  
BSC4-HearingDecsions  
L. Brewer-Walraven  
MOAHR

**Petitioner – Via First-Class Mail:**

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