



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: May 17, 2021
MOAHR Docket No.: 21-001561
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 three-way telephone hearing was held on May 3, 2021 and was continued. An Order Granting Continuance and Notice of Hearing was issued on May 5, 2021 scheduling a continued hearing for Friday, May 14, 2021 at 9:00 a.m. The Petitioner appeared for the original hearing held May 3, 2021, but did not appear to participate in the continued hearing. The continued hearing was commenced, and the record closed at the conclusion of the hearing. The Department of Health and Human Services (Department) was represented by Alinda Miller, Eligibility Specialist.

ISSUE

Did the Department properly deny the 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. The Petitioner applied for CDC benefits for her two children on [REDACTED], 2021. At the time of her application the Petitioner did not have an ongoing CDC case.
2. The Department determined the Petitioner's income ([REDACTED]) based upon \$586 dollars weekly. The income was reported by Petitioner on her application for the employer, [REDACTED], was for 40 hours a week at \$14.65 an hour. The income was confirmed by Petitioner at an interview for the application and was used by the Department when determining CDC income eligibility. Petitioner is paid weekly. The Department calculated \$2,519.80 as the income. The actual

gross pays for Petitioner based upon pay stubs provided were more than \$586.00 a week. Exhibit A, pp. 11-14.

3. Petitioner's husband was employed by [REDACTED] and his earned income was also used based on pay stubs received for the following 2 pay periods: January 16, 2021, \$1,475.00 and January 2, 2021, \$1,510.00. The Department used income of \$3,208.88 for determining CDC income eligibility. Exhibit A, pp. 8-9
4. At the hearing, the Department conceded that unemployment income of \$1,556.00 should not have been included in the CDC budget when determining CDC income eligibility.
5. The total CDC income when unemployment benefits are removed from the total income of \$7,283 is \$5,727.00 for the household. Exhibit A, p. 7.
6. The Petitioner's household size is 4 members, 2 adults and 2 children.
7. The Department issued a Notice of Case Action on February 16, 2021 denying Petitioner's CDC application effective January 17, 2021 due to the gross income exceeding the CDC monthly entry income limit of \$3,275.00 for new applications. RFT 270 (January 2021), p. 1.
8. Petitioner requested a timely hearing on [REDACTED] 2021 protesting 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 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, Petitioner submitted an application for CDC benefits on [REDACTED] 2021. The Department determined Petitioner exceeded the entry income limit for CDC eligibility. As a result, the Department sent Petitioner a Notice of Case Action informing Petitioner her application for CDC benefits was denied on February 17, 2021.

Eligibility for CDC is based on program group size and non-excluded income received by any member of the group. BEM 703 (May 2020), p. 16. 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). RFT 270 (January 2020), p. 16. After initial eligibility has been determined, a family's income must not exceed the maximum monthly gross income eligibility limit by family size associated with the \$90 family contribution category. RFT 270, p. 1.

Petitioner lives with her spouse and two minor children. Therefore, Petitioner's has a CDC group size of 4. BEM 205, pp.1-2. The income limit at entry for a group size of four is \$3,275.00. The Department presented a CDC budget to establish Petitioner exceeded the income limit for CDC benefits. Exhibit A, p. 7.

All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits. Group composition policies specify whose income is countable. BEM 500 (July 2017), pp. 1-5. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (January 2021), pp. 1-2. In prospecting income, the Department is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, pp. 5-6. A standard monthly amount must be determined for each income source used in the budget. BEM 505, pp. 7-8. Income received biweekly is converted to a standard amount by multiplying the average of the biweekly pay amounts by the 2.15 multiplier. Income received weekly is converted to a standard amount by multiplying the average of the weekly pay amounts by the 4.3 multiplier. BEM 505, pp. 7-9. An employee's wages include salaries, tips, commissions, bonuses, severance pay, and flexible benefit funds not used to purchase insurance. BEM 501 (January 2021), p. 6. The Department counts gross wages in the calculation of earned income. BEM 501, p. 7. (emphasis supplied).

At the hearing, the Department conceded that in the initial budget presented the Department should not have included unemployment income. When the unemployment income of \$1,556.00 is subtracted from the income total, the remaining group income based on the group's earned income is \$5,727 and is correct as further explained below. Based upon the earned income amount, the error due to including unemployment income is harmless as the actual earned income is over the CDC entry income limit of \$3,275.00.

In this case, the Department testified that it determined the Petitioner's gross monthly earned income was determined to be \$2,519.80. The Department stated Petitioner was paid weekly and based upon Petitioner's application information confirmed at an interview with Ms. Miller the caseworker, the earned income used was \$586.00 in weekly income based upon 40 hours of work at \$14.65/hour. Thus, the average of the

weekly pay amount based upon the Petitioner's self-reported income for January 2021 was \$586.00. To determine the monthly earned income the department multiplied the average weekly amount of \$586 by 4.3. $\$586 \times 4.3 = \$2,519.80$. The average weekly pay amount when multiplied by 4.3 results in monthly gross earned income of \$2,519.80. It is noteworthy that based upon actual pay stubs provided by Petitioner but not used by the Department, the Petitioner's monthly income would have been a larger amount as all of the pay stubs provided exceeded the \$586.00 income amount used by the Department to determine CDC income eligibility. See Exhibit A, pp.11-14.

Petitioner's husband was employed by [REDACTED] and his earned income was also used based on pay stubs received for the following 2 pay periods: January 16, 2021, \$1,475.00 and January 2, 2021, \$1,510. The Department used income of \$3,208.88 for determining CDC income eligibility. The income for determining CDC eligibility was determined by averaging the two pay stubs and multiplying the average pay by 2.15 base upon biweekly pays. $(\$1,475 + \$1,510 = \$2,985 \div 2 = \$1492.50 \times 2.15 = \$3,208.88$.

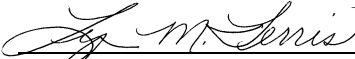
The Department ultimately correctly determined the Petitioner's CDC group income to be \$5,727.00. Because this was a new application, in order to be eligible for CDC Petitioner's group gross income could not exceed \$3,275 and thus it is determined that the Department correctly denied the Petitioner's application for CDC as the group income exceeded the CDC entry income limit. The Petitioner testified at the original hearing that her prior CDC case had been improperly closed, but did not appear at the continued hearing to give additional testimony or provide further explanation on that issue. In addition, the Petitioner's current hearing request was based solely upon the Department's denial of the [REDACTED] 2021 application which is the issue before the undersigned to be determined.

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 the Petitioner's CDC application due to her income exceeding the CDC entry gross income limit.

DECISION AND ORDER

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

LF/tm



Lynn M. Ferris
Administrative Law Judge

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-Wayne-15-Hearings
L. Brewer-Walraven
BSC4
MOAHR

Petitioner – Via First-Class Mail:

██████████
██████████
████████████████████