



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: February 2, 2022
MOAHR Docket No.: 21-005666
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Linda Jordan

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 telephonic hearing was held on January 6, 2022. Petitioner appeared on behalf of herself. Shawnte Gordon, Eligibility Specialist, and Gloria Thompson, Family Independence Manager, appeared on behalf of the Michigan Department of Health and Human Services (MDHHS or Department). However, due to technical difficulties, Petitioner was disconnected from the call before presenting her case. By the time the technical difficulties were resolved, insufficient time remained to conduct the remainder of the hearing. Accordingly, a continued hearing was held on January 27, 2022. Petitioner appeared and represented herself. Samar Hamad, Assistance Payments Supervisor, appeared on behalf of MDHHS.

ISSUES

1. Did MDHHS properly close Petitioner's Food Assistance Program (FAP) case?
2. Did MDHHS 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 an ongoing recipient of FAP benefits.

2. On or about September 16, 2021, Petitioner submitted a Redetermination for FAP (Exhibit A, pp. 16-20).
3. On October 6, 2021, Petitioner submitted check stubs from [REDACTED] (Employer) to verify her earned income (Exhibit A, pp. 31-34).
4. On [REDACTED], 2021, Petitioner applied for CDC benefits (Exhibit A, pp. 11-15).
5. On November 8, 2021, MDHHS sent Petitioner a Verification Checklist (VCL) requesting information to determine Petitioner's eligibility for FAP. Specifically, the VCL requested information regarding "Updated Earned Income at Redetermination" (Exhibit A, pp. 9-10). The VCL indicated that proofs were due on November 18, 2021 (Exhibit A, p. 9).
6. On November 17, 2021, MDHHS sent Petitioner a Notice of Case Action indicating that her application for CDC had been denied, effective October 24, 2021 ongoing and that her FAP case had been closed, effective November 1, 2021 ongoing (Exhibit A, pp. 6-8). The reason given for the denial of CDC benefits was that one minor child was not eligible due to not being up-to-date on immunizations and the household's gross income exceeded the entry limit for the CDC program (Exhibit A, p. 7). The reason given for the closure of the FAP case was that a verification of income was not returned (Exhibit A, p. 8).
7. On [REDACTED], 2021, Petitioner filed a hearing request disputing the closure of her FAP case and the denial of her application for 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 Food Assistance Program

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. MDHHS administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

In this case, MDHHS closed Petitioner's FAP case due to a failure to verify unearned income. The record shows that MDHHS sent Petitioner the VCL on November 8, 2021 (Exhibit A, pp. 9-10). The VCL stated that MDHHS needed information to determine Petitioner's eligibility for FAP and requested "Updated Earned Income at Redetermination" by November 18, 2021 (Exhibit A, p. 9).

MDHHS is required to obtain verification when it is required by policy or information is unclear or incomplete. BAM 130 (July 2021), p. 1. To obtain verification, MDHHS must tell the client what verification is required, how to obtain it and the due date. *Id.* MDHHS is required to use a VCL to request verification from clients. *Id.* Clients are required to obtain the requested verification, but the local office must help if they need and request help. BAM 130, p. 3. If neither the client nor the local office can obtain verification despite a reasonable effort, MDHHS is required to use the best available information. *Id.* Verifications are considered timely if they are received by the date they are due. BAM 130, p. 7. MDHHS is required to send a negative action notice if the time period has elapsed and the client has not made a reasonable effort to provide the requested verification. *Id.* However, if a client contacts MDHHS prior to the due date and requests an extension or assistance in obtaining the verification, MDHHS must assist the client. *Id.*

MDHHS closed Petitioner's FAP case due to a failure to verify unearned income (Exhibit A, p. 8). However, the VCL that MDHHS sent Petitioner did not ask her to verify unearned income. The VCL requested that Petitioner provide proof of updated *earned* income (Exhibit A, p. 9). No evidence was presented that MDHHS requested verification of Petitioner's unearned income. Thus, failure to provide verification of unearned income was not a proper basis for closing Petitioner's FAP case.

The record further shows that Petitioner was receiving Unemployment Compensation Benefits (UCB) and that MDHHS received proof of those benefits from a Consolidated Income Inquiry on October 5, 2021 (Exhibit A, pp. 28-30). Given this evidence, it is unclear why MDHHS required proof of unearned income unless there was a discrepancy. No evidence was presented that MDHHS requested information related to the UCB. Further, Petitioner credibly testified at the hearing that she provided MDHHS with all the documents that it requested, including paystubs which detailed her earned income (Exhibit A, pp. 31-34). Finally, MDHHS sent the Notice of Case Action notifying Petitioner that her FAP case was closed was sent on November 17, 2021, one day before the verifications were purportedly due (Exhibit A, p. 6).

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 MDHHS did not act in accordance with Department policy when it closed Petitioner's FAP case.

Child Development and Care (CDC)

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, MDHHS denied Petitioner's application for CDC because one of the minor children was not up-to-date on immunizations and Petitioner's gross income exceeded the entry limit for the CDC program (Exhibit A, p. 7). Regarding the immunization issue, Petitioner credibly testified that her minor children were up-to-date on all of their immunizations and that MDHHS never requested proof of their immunizations. MDHHS did not present any evidence to the contrary. Therefore, MDHHS failed to establish that this was a valid reason to deny Petitioner's application for CDC benefits.

MDHHS also alleged that Petitioner was denied for CDC because her gross income exceeded the entry limit for the CDC program. 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 (November 2021), p. 1. At application, eligibility for CDC services exists when the MDHHS has established all 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 income eligible for CDC at application, a family's gross monthly income must not exceed the Maximum Monthly Gross Income Limit for the family size associated with the \$15 Family Contribution (FC) provided in the CDC Income Eligibility Scale. BEM 525 (January 2017), p. 1; RFT 270. For income-eligible CDC determinations, the income of all program group members must be considered, as well as applicable exclusions. BEM 525 (January 2017), p. 1. To compute income, MDHHS considers the gross countable, monthly income to determine income eligibility and the family contribution. *Id.* MDHHS is required to complete a CDC budget at application and include the amount on the Notice of Case Action. *Id.*

Although MDHHS alleged that Petitioner's CDC was denied for excess income, it did not include a budget on the Notice of Case Action or introduce a CDC Income budget at the hearing. MDHHS testified that Petitioner's countable income for CDC was \$[REDACTED], based on wages of \$[REDACTED] per week from Employer, UCB and a \$[REDACTED] stipend from Petitioner's school for transportation expenses. However, after reviewing the record, it is unclear how MDHHS arrived at that monthly amount and MDHHS did not introduce adequate information or sufficiently explain how it budgeted Petitioner's monthly income.

Accordingly, 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 MDHHS failed to satisfy its burden of showing that it acted in accordance with Department policy when it denied Petitioner's application for CDC benefits.

DECISION AND ORDER

Accordingly, MDHHS's decision is **REVERSED**.

MDHHS IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate Petitioner's FAP case as of November 1, 2021;
2. Recalculate Petitioner's FAP budget for November 1, 2021 ongoing;
3. If Petitioner is eligible for FAP benefits, issue supplements to Petitioner for any FAP benefits she was eligible to receive but did not from November 1, 2021 ongoing;
4. Reregister the [REDACTED], 2021 CDC Application;
5. Determine Petitioner's eligibility for CDC benefits from November 3, 2021 ongoing;
6. If Petitioner is eligible for CDC benefits, issue supplements to Petitioner or her providers for CDC benefits she was eligible to receive but did not from November 3, 2021 ongoing; and
7. Notify Petitioner of its decisions in writing.

LJ/tm



Linda Jordan
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

Email Recipients:

MDHHS-Wayne-17-Hearings
M. Holden
D. Sweeney
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First-Class Mail Recipient:

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