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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: July 18, 2022
MOAHR Docket No.: 22-002558
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Danielle Nuccio

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 July 13, 2022. The Petitioner appeared and represented herself. The Department of Health and Human Services (MDHHS) was represented by Terry Glenn, Family Independence Specialist.

ISSUE

Did MDHHS properly deny Petitioner’s ██████████ 2022 application for Food Assistance Program (FAP) and Child Development and Care (CDC) due to excess gross 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. On ██████████ 2022, Petitioner applied for FAP for a group size of three, consisting of her live together partner, ██████████ (LTP), and minor daughter, ██████████ (Daughter), and herself. Petitioner also applied for CDC for Daughter.
 - a. Petitioner reported that the household contains no Senior, Disabled, or Disabled Veteran (S/D/V) individuals.
 - b. Petitioner reported employment at ██████████ (Petitioner Employer), working 36 hours weekly, earning \$████████ per hour, and is paid bi-weekly.
 - c. Petitioner reported that LTP is employed at Eastside ██████████ (LTP Employer), working 35 hours weekly, earning \$████████ per hour, and is paid weekly.

- d. Petitioner reported \$1,049.98 in housing expenses for her monthly mortgage payment. Petitioner is responsible for paying her own utilities.
- e. Petitioner reported needing 80 hours of child care every two weeks so that she is able to work and attend school.

(Exhibit A, pp. 7-14)

2. On May 3, 2022, MDHHS issued a Notice of Case Action to Petitioner informing her that both her FAP and CDC applications were denied for excess gross income for the entry limit. MDHHS calculated Petitioner's gross income to be \$ [REDACTED] (Exhibit A, pp. 32-36).
3. On June 14, 2022, the Petitioner filed a timely hearing request disputing the denial of her FAP and CDC application based on excess income (Exhibit A, pp. 4-5).

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).

Food Assistance Program (FAP)

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. The Department (formerly known as the Department of Human Services) 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, Petitioner disputes the denial of her April 19, 2022 FAP application due to excess gross income.

All FAP groups which do not contain a Senior, Disabled, or Disabled Veteran (S/D/V) group member must have income below the Gross Income Limit and the Net Income Limit. BEM 550 (January 2022), p. 1. At the time of Petitioner's application, the Gross Income Limit for a group size of three was \$2,379.00 and the Net Income Limit was \$1,830.00. RFT 250 (October 2021), p. 1; BEM 213 (October 2021), p. 1. MDHHS denied Petitioner's application due to excess gross income. Petitioner testified that her household does not contain a S/D/V member. MDHHS determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. In prospecting income, MDHHS 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 (November 2021) pp. 5-6. A standard monthly amount must be

determined for each income source used in the budget, which is determined by multiplying average biweekly pay by 2.15 and average weekly pay by 4.3. BEM 505 pp. 8-9.

In this case, MDHHS determined Petitioner's gross earned income using pay information received from Petitioner Employer (see Exhibit A, pp. 22-25) and for LTP via The Work Number database, which receives income information directly from LTP Employer and is accessed using LTP's Social Security Number (see Exhibit A, pp. 26-28). Petitioner did not dispute the accuracy of this income information that MDHHS relied upon. In reviewing Petitioner's income information, from March 7, 2022 to April 3, 2022, Petitioner's gross income was \$[REDACTED]. This amount is determined by averaging Petitioner's biweekly pay then using the standard multiplier 2.15 to convert Petitioner's income to a standard monthly amount. In reviewing LTP's income information, from March 1, 2022 to March 22, 2022 LTP's gross income was \$[REDACTED]. This amount is determined by averaging LTP's weekly pay then using the standard multiplier 4.3 to convert LTP's income to a standard monthly amount. This totals to \$[REDACTED] in household earned income. MDHHS calculated that Petitioner had \$[REDACTED] (see Exhibit A, p. 34) in earned income without explanation as to how this amount was calculated. Nevertheless, both amounts are over the gross income limit of \$2,379.00. Therefore, MDHHS acted in accordance with policy in determining Petitioner was not eligible to receive FAP benefits due to excess gross income.

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, Petitioner disputes that her [REDACTED] 2022 CDC application was denied based on excess gross income.

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. The CDC program is intended to promote continuity of care and to extend the time an eligible child has access to child care assistance by providing a subsidy for child care services for qualifying families. BEM 703 (April 2022), p. 1.

If a child does not qualify for one of the CDC protective services groups (cases with children's protective services, foster care, Family Independence Program, migrant farmworkers or homelessness), the group must pass the CDC income eligibility test. BEM 703, p. 16; RFT 270 (January 2022), p. 1. For income eligible determinations, the income of all program group members must be considered. BEM 525 (November 2021),

p. 1. Income eligible families may have a co-payment amount called a family contribution. MDHHS uses the gross (before deductions) countable, monthly income to determine income eligibility and the family contribution. 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, 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 program exit limit. BEM 703, p. 16.


In this case, Petitioner's group size is three. The maximum gross income limit for a household size of three at the time of Petitioner's [REDACTED] 2022 CDC application was \$3,386.00 RFT 270, p. 1. As discussed, Petitioner's household income totals to \$[REDACTED]. MDHHS calculated that Petitioner had \$[REDACTED] (see Exhibit A, p. 34) in earned income without explanation as to how this amount was calculated. However, both amounts are over the CDC gross income limit. Since Petitioner's gross income exceeds the CDC entry maximum limit, MDHHS acted in accordance with policy when denying Petitioner's CDC 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 MDHHS acted in accordance with Department policy when it denied Petitioner's [REDACTED] 2022 FAP application due to excess gross income and when it denied Petitioner's [REDACTED] 2022 CDC application due to excess gross income.

DECISION AND ORDER

Accordingly, MDHHS' decision is **AFFIRMED**.

DN/mp



Danielle Nuccio
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-Electronic Mail :

DHHS
MDHHS-Macomb-20-Hearings
L. Brewer-Walraven
D. Sweeney
M. Holden
MOAHR
BSC4

Via-First Class Mail :

Petitioner
[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]