



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: September 21, 2022
MOAHR Docket No.: 22-003622
Agency No.: ██████████
Petitioner: ██████████

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 September 14, 2022, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Ashley Soper, Family Independence Manager.

ISSUE

Did the Department properly close Petitioner's Child Development and Care (CDC) case?

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. In connection with a redetermination, Petitioner's eligibility for CDC benefits was reviewed.
2. Petitioner's household includes herself and one minor child.
3. Petitioner confirmed that she is employed and receives gross weekly pay in the amount of \$██████████ (Exhibit A, pp. 10-13)
4. On or around August 3, 2022, the Department sent Petitioner a Notice of Case Action, advising her that effective July 31, 2022, she was no longer eligible for CDC benefits because her gross income exceeded the income limit and thus, her CDC case would be closed. (Exhibit A, pp. 4-7)

5. On or around August 12, 2022, Petitioner requested a hearing disputing the Department's actions with respect to the closure of her CDC case. (Exhibit A, p.3)

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 disputed the closure of her CDC case effective July 31, 2022. At the hearing, the Department representative testified that in connection with a redetermination, Petitioner's eligibility to receive CDC benefits was reviewed and based on the paystubs/earning statements submitted, Petitioner was ineligible for CDC benefits as her gross income exceeded the limit for the program. The Department representative testified that it initiated the closure of Petitioner's CDC case by issuing the August 3, 2022, Notice of Case Action. The Department conceded that although the Notice of Case Action identified incorrect manual item numbers (BEM 550, 554, 556), the decision to close Petitioner's case was still correct and based on an excess gross income limit determination. Petitioner was advised that although the Department failed to include the correct policy provisions on the Notice of Case Action, the undersigned Administrative Law Judge would review and reference the law and Department Policies applicable to 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 (April 2022), p. 1. Once eligibility has been determined, the children will remain eligible for the entire 12-month certification period unless the case closes for one of the reasons listed in BAM 220. At application or redetermination, 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 (the column marked **entry**). 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.

The income of all program group members must be considered and the Department is to consider the gross (before deductions) countable, monthly income to determine income eligibility. BEM 505 provides details on when a budget is needed, income and benefit month definitions, and the conversion of income to a standard monthly figure. The Department will complete a budget at application and redetermination. BEM 525 (November 2021), pp. 1-2. Petitioner's household is considered an income eligible group and consists of Petitioner and one minor child. For a two-member CDC group, the gross monthly income entry limit at the time of Petitioner's July 2022 redetermination was \$[REDACTED] and the exit limit was \$[REDACTED] RFT 270 (July 2022), p. 1. Thus, Petitioner will be eligible for CDC services if her household's countable income at application does not exceed \$[REDACTED]

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 (April 2022), 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 (November 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. 5-9. A standard monthly amount must be determined for each income source used in the budget. BEM 505, pp. 7-8. 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 (July 2022), p. 6.

The Department testified that because Petitioner's case was due for review and the 12-month initial eligibility period was ending, the Department was required to complete a new CDC income budget to determine Petitioner's ongoing CDC eligibility. The Department presented a CDC Income Budget in support of its position that Petitioner's gross income was in excess of the income limit. (Exhibit A, p. 14). The Department testified that in calculating the household's gross income of \$[REDACTED] it considered

Petitioner's earnings from employment as confirmed through paystubs submitted. Specifically, the Department considered the following gross weekly pay amounts: \$██████ paid on May 20, 2022, May 27, 2022, June 3, 2022, and June 10, 2022. (Exhibit A, pp. 10-13). Because the Department is required to prospectively budget income and convert earnings to a standard monthly amount per BEM 505 and BEM 525 outlined above, the Department multiplied the average of Petitioner's weekly earnings by the standard multiplier of 4.3 to conclude that Petitioner had monthly earned income of \$██████. Petitioner confirmed that she is employed and has earnings in the amounts relied upon by the Department and there was no evidence that the income was temporary. Thus, the Department properly calculated Petitioner's earned income of \$██████.

Upon review, Petitioner's earned income exceeded the \$██████ entry income limit for a two-member CDC group. It is noted that Petitioner's earned income would also have exceeded the \$██████ exit income limit for her CDC group.

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 because Petitioner's gross monthly household income was greater than the income limit for CDC eligibility, the Department acted in accordance with Department policy when it closed Petitioner's CDC case at redetermination due to excess income.

DECISION AND ORDER

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

ZB/ml



Zainab A. Baydoun
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
Linda Gooden
Oakland County Southfield District III
25620 W. 8 Mile Rd
Southfield, MI 48033
**MDHHS-Oakland-6303-
Hearings@michigan.gov**

Interested Parties
BSC4
L. Brewer-Walraven
MOAHR

Via First Class Mail :

Petitioner
[REDACTED]
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[REDACTED] MI [REDACTED]