



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] MI [REDACTED]

Date Mailed: September 23, 2022  
MOAHR Docket No.: 22-003722  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Landis Lain**

### **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 21, 2022. Petitioner Kellie Reed self-represented at the hearing. The Department of Health and Human Services (Department) was represented by Carrie Weeks, Family Independence Manager.

### **ISSUE**

Did the Department properly cancel Petitioner's Child Development and Care (CDC) Program eligibility?

### **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 a CDC benefit recipient.
2. On June 22, 2022, Petitioner submitted a change report to the Department indicating she had new income and submitted a paystub for [REDACTED]  
[REDACTED]
3. On August 5, 2022, the change report and paystub were processed by a caseworker. [REDACTED] was checked at this time for both Petitioner and spouse, [REDACTED].
4. Both individuals showed active employment on this system, Petitioner with [REDACTED] and [REDACTED] with [REDACTED]

5. The last 30 days of income were entered for both at that time.
6. The Child daycare program was closed due to excess income based on the last 30 days of pay.
7. On August 5, 2022, a Notice of Case Action informing Petitioner was sent on this day.
8. On [REDACTED] 2022, a hearing request was received regarding the Child Daycare program closure.
9. On August 16, 2022, a prehearing conference appointment was sent to Ms. Reed for August 23, 2022, at 10:00 am at the Shiawassee County MDHHS office.
10. August 23, 2022, a prehearing conference was held by the Supervisor with Petitioner.
11. The income limits for the Child daycare program were reviewed at the conference.
12. Petitioner indicated at the conference that she wished to follow through with the hearing request.
13. On September 1, 2022, the Michigan Office of Administrative Hearings and Rules received a Hearing Summary and attached documents.

### **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.

Pertinent Department policy dictates:

Changes reported by clients may affect eligibility for other programs but may not affect the current CDC eligibility or benefit. Only changes that would positively affect the

client's family contribution (FC), or authorized hours, **unless a negative action is required or allowed in the following situations:**

Those listed in the CDC EDG Closure Reasons; see BAM 220.

- An FC increase tied to a provider change.
- A case correction required due to an incorrect eligibility determination (regardless of client or agency error).

Note: For the dates of November 7, 2021, through September 24, 2022, the FC amount will be waived for all children approved for the CDC subsidy. This temporary change is possible due to additional federal funding. When this temporary change ends, standard policy will be applied, and each child's FC will be based on the most recent CDC eligibility determination and current provider assignment. If an FC amount is assigned this will not be considered a negative action.

CDC clients are required to report, within 10 calendar days, changes in:

- Group composition/death.
- Out of state residency.
- Providers or childcare setting.
- Assets that exceed \$1 million.
- **When income exceeds the income eligibility scale for the family size;** see RFT 270. BAM 220 pages 2-3 (Emphasis Added)

The Department is required to act on a change reported by means other than a tape match within 15 workdays after becoming aware of the change. BAM 220 page 7

The following are valid reasons to **end** CDC benefits during the 12-month continuous eligibility period:

- Client requests closure.
- Unable to locate.
- Child support non-cooperation (income eligible only).
- Substantiated welfare fraud or IPV sanction.
- Loss of Michigan residency.
- **Income exceeds the eligibility scale in RFT 270, and the income increase is not Temporary Excess Income;** see BEM 505.
- Only authorized child ages out or leaves the household; see BEM 240 for age requirements.
- Only P/SP on the case leaves the household (no longer resides with the authorized child).
- Minor parent, active on legal guardian's case, turns 18.
- Assets exceed \$1 million.
- A case correction that results in closure. BAM 220, page 21

A standard monthly amount must be determined for each income source used in the budget. Stable and Fluctuating Income Convert stable and fluctuating income that is received more often than monthly to a standard monthly amount. Use one of the following methods:

- Multiply weekly income by 4.3.
- Multiply amounts received every two weeks by 2.15.
- Add amounts received twice a month.

This conversion takes into account fluctuations due to the number of scheduled pays in a month. BEM 505, pages 8-9

In this case, Petitioner has a family group of 8 people. Maximum monthly gross income limits for a family of 8 people is \$[REDACTED].

The Department made the prospective income calculations:

- \$[REDACTED] divided by [REDACTED] = \$[REDACTED] average pay for Petitioner. Petitioner is paid every two weeks. [REDACTED] = [REDACTED] in average monthly income.
- \$[REDACTED] = \$[REDACTED] (five weeks pay), [REDACTED] divided by [REDACTED] = [REDACTED]. [REDACTED] x [REDACTED] (Petitioner's Spouse is paid bi-weekly) = \$[REDACTED] in average monthly income.
- \$[REDACTED] + [REDACTED] = \$[REDACTED]7 in gross monthly income, which exceeds the gross income limit for CDC eligibility.

Petitioner feels that the extra week should not have been considered in the equations.

This Administrative Law Judge removed the extra week of income for both Petitioner and her spouse and recalculated the amounts most beneficial to the Petitioner. The prospective budget outcome:

- Petitioner/ July income only [REDACTED] = [REDACTED] [REDACTED] divided by 2 = [REDACTED]. \$[REDACTED] x [REDACTED] = [REDACTED].
- Spouse/July income only: [REDACTED]. [REDACTED] divided by [REDACTED] = [REDACTED]. \$[REDACTED]
- \$[REDACTED] in monthly gross income without the extra week in the calculations.

If Petitioner's actual gross income for one month (July 2022) had been counted:

- Petitioner's gross income would be \$[REDACTED]

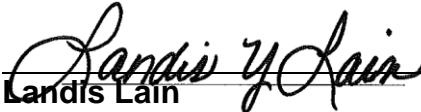
- Petitioner's spouse's gross actual income for the month of July 2022 was [REDACTED].
- \$ [REDACTED] without the prospective budget multiplier, which is still over the income limit for a family of eight persons.

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 has established by a preponderance of evidence on the record that it acted in accordance with Department policy when it cancelled Petitioner's CDC benefit eligibility because Petitioner and her spouse possessed excess income.

**DECISION AND ORDER**

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

LL/tm

  
\_\_\_\_\_  
Landis Lain  
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**  
Matt Zofchak  
Shiawassee County DHHS  
1720 East Main Street  
Owosso, MI 48867  
**MDHHS-Shiawassee-  
Hearings@michigan.gov**

**Interested Parties**  
L. Brewer-Walraven  
BSC2  
MOAHR

**Via-First Class Mail :**

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