



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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██████████, MI ██████████

Date Mailed: October 11, 2022
MOAHR Docket No.: 22-004065
Agency No.: ██████████
Petitioner: ██████ ██████

ADMINISTRATIVE LAW JUDGE: Kevin Scully

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; 45 CFR 99.1 to 99.33; and 45 CFR 205.10. After due notice, a telephone hearing was held on October 6, 2022, from Lansing, Michigan. Petitioner represented herself. The Department was represented by Shawn Henning.

ISSUE

Did the Department of Health and Human Services (Department) properly deny Petitioner's application for Food Assistance Program (FAP) and 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. On ██████████ 2022, the Department received Petitioner's application for Food Assistance Program (FAP) and Child Development and Care (CDC) benefits. Exhibit A, pp 7-16.
2. Petitioner's spouse received monthly earned income in the gross bi-weekly amounts of \$██████████ and \$██████████ in July of 2022. Exhibit A, p 19.
3. One of Petitioner's children receives adoption subsidy payments of \$██████████ per day. Exhibit A, p 35.
4. Petitioner received self-employment in the gross monthly amounts of \$██████████ in May of 2022, \$██████████ in June of 2022, and \$██████████ in July of 2022. Exhibit A, pp 37-42.
5. On August 16, 2022, the Department notified Petitioner that she was ineligible for Child Development and Care (CDC) benefits. Exhibit A, p 26.

6. On August 29, 2022, the Department notified Petitioner that she was ineligible for Food Assistance Program (FAP) benefits. Exhibit A, p 43.
7. On September 6, 2022, the Department received Petitioner's request for a hearing protesting the denial of Food Assistance Program (FAP) and Child Development and Care (CDC) benefits. Exhibit A, pp 5-6.

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 (FAP) is funded under the federal Supplemental Nutrition Assistance Program (SNAP) established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 through 7 USC 2036a. It is implemented by the federal regulations contained in 7 CFR 273. The Department administers FAP pursuant to MCL 400.10 of the Social Welfare Act, MCL 400.1 *et seq*, and Mich Admin Code, R 400.3001 through 400.3011.

The Child Development and Care (CDC) program is established by Titles IV-A, IV-E, and XX of the Social Security Act, 42 USC 601 through 42 USC 619, 42 USC 670 through 42 USC 679c, and 42 USC 1397 through 42 USC 1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9857 through 42 USC 9858r; and 42 USC 618 of the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The CDC program is implemented by 45 CFR 98.1 through 45 CFR 99.33. The Department administers the CDC program pursuant to MCL 400.10 of the Social Welfare Act, MCL 400.1 *et seq.*, and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001 through 400.5020.

All earned and unearned income available is countable unless excluded by policy. Earned income means income received from another person or organization or from self-employment for duties for duties that were performed for compensation or profit. Unearned income means all income that is not earned income. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. Department of Human Services Bridges Eligibility Manual [\(BEM\) 500](#) (April 1, 2022), pp 1-17.

Individuals who run their own businesses are self-employed. This includes but is not limited to selling goods, farming, providing direct services, and operating a facility that provides services such as adult foster care home or room and board. A person who provides childcare in his/her home is considered to be self-employed. Rental income is sometimes counted as unearned income and sometimes as self-employment. The amount of self-employment income before any deductions is called total proceeds.

Countable income from self-employment equals the total proceeds minus allowable expenses of producing the income. Allowable expenses are the higher of 25 percent of the total proceeds, or actual expenses if the client chooses to claim and verify the expenses. Department of Human Services Bridges Eligibility Manual (BEM) 502 (October 1, 2019), pp 1-3.

All income is converted to a standard monthly amount. If the client is paid weekly, the Department multiplies the average weekly amount by 4.3. If the client is paid every other week, the Department multiplies the average bi-weekly amount by 2.15. Department of Human Services Bridges Eligibility Manual (BEM) 505 (October 1, 2017), pp 7-8.

On [REDACTED] 2022, the Department received Petitioner's application for FAP and CDC benefits. The hearing record supports a finding that Petitioner's spouse received \$[REDACTED] of earned income from his employment in July of 2022. One of Petitioner's children received adoption subsidy payments of \$[REDACTED] per day, or \$[REDACTED] per month. Petitioner reported self-employment income in the gross monthly amount of \$[REDACTED] in July of 2022.

Petitioner is not entitled to a deduction for her actual self-employment expenses because verification of those expenses was not submitted to the Department. Where self-employment expenses are not verified, the Department is directed by BEM 502 to apply a flat 25% deduction for self-employment expenses.

The hearing record supports a finding that the countable income for Petitioner's household exceeds the \$6,198 limit to become eligible for CDC benefits. Department of Health and Human Services Reference Table Manual (RFT) 270 (October 1, 2022), p 3.

The hearing record supports a finding that the countable income for Petitioner's household exceeds the \$4,541 gross monthly income limit to receive FAP benefits. Department of Health and Human Services Reference Table Manual (RFT) 250 (October 1, 2022), p 1.


Petitioner testified that her spouse is not longer living in the household. As Petitioner's circumstances change, her eligibility for benefits may change as well and she is entitled to reapply at any time.

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 determined Petitioner's eligibility for Food Assistance Program (FAP) and Child Development and Care (CDC) benefits.

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

KS/nr



Kevin Scully
Administrative Law Judge
Michigan Office of Administrative Hearings
and Rules (MOAHR)

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
Kim Cates
Bay County DHS
1399 W. Center Road
Essexville, MI 48732
MDHHS-Bay-
[Hearings@michigan.gov](mailto:MDHHS-Bay-Hearings@michigan.gov)

Interested Parties
Bay County DHHS
BSC2
M. Holden
D. Sweeney
L. Brewer-Walraven
MOAHR

Via-First Class Mail :

Petitioner

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