



GRETCHEN WHITMER  
GOVERNOR

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

ORLENE HAWKS  
DIRECTOR

[REDACTED]  
MI [REDACTED]

Date Mailed: December 15, 2022  
MOAHR Docket No.: 22-005212  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler**

**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 December 14, 2022. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Valarie Foley, Hearings Facilitator.

**ISSUE**

Did the Department properly deny Petitioner’s Child Development and Care (CDC) application for 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 September 27, 2022, the Department received Petitioner’s application for CDC benefits listing herself, her husband, and four children as household members, and CDC for only one of her children.
2. Petitioner received the following biweekly earned income:
 

September 30, 2022	\$ [REDACTED]
October 14, 2022	\$ [REDACTED]
3. Petitioner’s husband had the following earned income from his S-Corporation:

August 19, 2022  
September 2, 2022  
September 16, 2022

\$ [REDACTED]  
\$ [REDACTED]  
\$ [REDACTED]

4. On October 25, 2022, the Department issued a Notice of Case Action to Petitioner informing her that her application had been denied effective September 25, 2022 because her group's gross income exceeded the limit for entry in the CDC program.
5. On November 7, 2022, the Department received Petitioner's request for hearing disputing the denial of her CDC application.

### **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 disputes the Department's denial of her CDC application for being over the income limit. 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. The program provides a subsidy for childcare services for qualifying families. *Id.* All groups must be income eligible unless the group is in children's protective services, foster care, has a Family Independence Program (FIP)-related case, are migrant farmworkers, or is homeless. BEM 703, p. 13-16. Eligibility based upon income considers group size and countable gross monthly income received by any member of the group. BEM 703, p. 16. In order to enter the CDC program, the family's gross monthly income cannot exceed the program entry limit (the \$15.00 Family Contribution Category found in RFT 270). *Id.* Petitioner's CDC group includes herself, her husband, and her four children as policy requires each child for whom care is requested, the child's legal and/or biological parent, and the child's unmarried and under age 18 siblings to be part of the group if everyone is living together. BEM 205 (October 2017), p. 1. The program entry limit for a family size of six is \$6,198.00. RFT 270 (July 2022), p. 1.

Petitioner has employment income, and her husband has self-employment income from his S-corporation. CDC income budgeting requires consideration of the gross countable monthly income to determine eligibility. BEM 525 (November 2021), p. 1. A group's financial eligibility and monthly benefit amount are determined using actual income and prospected income (not received but expected). BEM 505 (November 2021), p. 1. For non-child support income, the Department uses income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month. BEM 505, p. 6. The Department then must determine a standard monthly amount. BEM 505, pp. 8-9. For wages received on a biweekly basis, the average of the income is multiplied by 2.15. *Id.*

Petitioner receives a bi-weekly paycheck. Her income from the two paychecks provided was \$ [REDACTED] and \$ [REDACTED]. Therefore, Petitioner's standardized gross income is \$ [REDACTED]. Petitioner's husband receives \$ [REDACTED] biweekly from his S-corporation. Per policy, S-Corporations are not considered self-employment income. BEM 502 (October 2019), p. 1. The Department counts income from a client's S-Corporation as wages even if the client is the owner. BEM 501 (July 2022), p. 5. Therefore, Petitioner's husband's standardized income is \$ [REDACTED] and their combined standardized income is \$ [REDACTED]. After reviewing Petitioner's group's income, the Department improperly denied her application for CDC benefits for being over the application income limit.

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 did not act in accordance with Department policy when it denied Petitioner's application for CDC benefits for being over the income limit.

### **DECISION AND ORDER**

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

THE DEPARTMENT 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. Reprocess Petitioner's CDC application and calculate Petitioner's group's income in accordance with policy;
2. If otherwise eligible, issue supplements to Petitioner for benefits not previously received; and,

3. Notify Petitioner in writing of its decision.

AMTM/cc



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**Amanda M. T. Marler**  
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 :**

**Interested Parties**

MDHHS-Wayne-19-Hearings  
BSC4-HearingDecisions  
L. Brewer-Walraven  
MOAHR

**Via-First Class Mail :**

**Petitioner**

[REDACTED] MI [REDACTED]