



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: March 13, 2023  
MOAHR Docket No.: 23-000708  
Agency No.: ██████████  
Petitioner: ██████ ██████

**ADMINISTRATIVE LAW JUDGE:** Aaron McClintic

### **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 March 8, 2023, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Nichole Yokie. Department Exhibit 1, pp. 1-16 was received and admitted.

### **ISSUE**

Did the Department properly deny Petitioner's Food Assistance Program (FAP) and Child Development and Care (CDC) applications?

### **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 ██████████ ██████████ 2023, Petitioner applied for FAP and CDC.
2. On January 17, 2023, a Verification Checklist was sent to Petitioner requesting verification of assets and need reason for CDC. (Ex. 1, pp. 10-11)
3. Petitioner provided bank statements that showed she had \$15,379.69 in countable assets. (Ex. 1, pp. 5-9)
4. On January 27, 2023, Notice of Case Action was sent to Petitioner informing her that her FAP application was denied due to excess assets and her CDC application was denied for failing to verify need reason. (Ex. 1, pp. 12-16)

5. On February 6, 2023, Petitioner requested hearing disputing the denial of FAP and CDC.

### **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) [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.

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.

#### **FAP Asset Limits**

#### **FAP**

\$15,000 or less.

#### **NEED REASONS**

##### **1. Family Preservation**

Child care may be approved for a child whose P/SP is:

- Unavailable to provide care because they are participating in a court-ordered activity.
- Unavailable to provide care because they are required to participate in the treatment activity of another

member of the CDC program group, the CDC applicant or the CDC applicant's spouse who lives in the home.

- Unable to provide care due to a condition for which they are being treated by a physician.
- Unavailable to provide care due to an employment or educational need that is part of the child protective services/foster care services case plan.

Child care for this need reason cannot be authorized for **ongoing** 24-hour care.

**Note:** The family preservation need is based on the P/SP's need, not the child's need.

Allowable conditions may include, but are not limited to the following:

- Disability or mental disturbance.
- Chronic health conditions.
- Drug/alcohol abuse.
- Social isolation.
- Domestic violence.
- History of child abuse/neglect in family or poor, inadequate parenting.

Allowable treatment activities may include, but are not limited to the following:

- Hospitalization.
- Physical therapy.
- Occupational therapy.
- Speech therapy.
- Counseling sessions.
- Alcoholics Anonymous (AA) meetings.
- Narcotics Anonymous (NA) meetings.
- Parenting classes.
- Support classes.
- Food and nutrition classes.
- Court-ordered community service.
- Money management classes.

Unless part of the foster care services plan, allowable treatment activities do not include elementary, secondary, post-secondary or vocational education classes under this need reason. Specialists who receive notice that an

educational activity is necessary as part of the foster care services plan should use family preservation as the need reason and refer the client to the one-stop service center for approval. If the one-stop service center approves the educational activity, the specialist should change the need reason to approved activity. If the one-stop service center does not approve the activity, continue to use family preservation as the need reason for as long as indicated by the foster care worker.

**Note:** Child care payments may **not** be approved for respite care, as defined in BPG Glossary.

The DHS-4575, Child Development and Care (CDC) Proof of Family Preservation Need, must be used to document the family preservation child care need. The form must be signed by one of the following:

- A physician (M.D. or D.O.).
- The MDHHS children's protective services, foster care services, or preventive services worker if child care is needed to allow a parent/substitute parent to participate in a treatment activity as a component of an active children's protective services, foster care services or preventive services case plan.
- A clinical psychologist.
- A clinical social worker.
- The clinical supervisor or director of a substance abuse treatment program.
- A substance abuse counselor.
- The specialist, if it is a MDHHS-assigned family support services (FSS) activity.

**Note:** Child care needed for MDHHS-assigned FSS activities may be paid using Direct Support Services (DSS) funds or the CDC program if eligibility exists. Take care to avoid duplicate payments.

The DHS-4575 must be completed at application and redetermination.

The DHS-4575 verifies:

- The reason CDC services are needed (diagnosis of condition or explanation of activity which prevents the P/SP from providing the care).
- The activities in which the P/SP is expected to participate while the child is receiving CDC services.
- How often the P/SP is being treated/seen.
- The length of time CDC services will likely be required.
- The days per week and number of hours per day that child care will be needed.
- The child(ren) needing child care. BEM 703

In this case, Petitioner provided bank records showing that she had countable assets totaling \$15,379.69. Therefore, Petitioner was over the assets limit of \$15,000 and the denial for excess assets was proper and correct and consistent with Department policy. BEM 400 Petitioner argued that she had a pending transaction and that she spent enough money a few days after the bank statement was generated and that put her under the \$15,000 assets limit. The Department is required to make a determination based on the information provided to them. The information provided by Petitioner showed she was over the asset limit, therefore the denial for excess assets was proper and correct and consistent with Department policy. BEM 400 If Petitioner is under the asset limit in the future, she has an opportunity to reapply, and her eligibility would be determined based on her present circumstances.

With regard to her CDC application, Petitioner was sent a verification checklist that clearly instructed her to provide verification of her CDC need reason. Petitioner provided documents related to her child's medical condition. The Department did not receive verification of need reason from Petitioner prior the deadline on the verification and therefore the denial for failure to verify need reason was proper and correct and consistent with Department policy. BEM 730, BAM 139

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 denied Petitioner's FAP and CDC applications.

**DECISION AND ORDER**

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

AM/nr

  
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Aaron McClintic  
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**  
Kelly Sutherland  
Livingston County DHS  
2300 E Grand River Ste. 1  
Howell, MI 48843  
**MDHHS-Livingston-  
Hearings@michigan.gov**

**Interested Parties**  
Livingston County DHHS  
BSC4  
M. Holden  
D. Sweeney  
L. Brewer-Walraven  
MOAHR

**Via-First Class Mail :**

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