



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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Date Mailed: April 21, 2023
MOAHR Docket No.: 23-000873
Agency No.: ██████████
Petitioner: ██████████

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 23, 2023, from Lansing, Michigan. ██████████ the Petitioner, appeared on her own behalf. The Department of Health and Human Services (Department) was represented by Brad Reno, Eligibility Specialist and Hearing Facilitator (ES/HF).

During the hearing proceeding, the Department's Hearing Summary packet was admitted as Exhibit A, pp. 1-56.

ISSUE

Did the Department properly deny Petitioner's applications for the Child Development and Care (CDC) program?

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, Petitioner applied for CDC for a household of two, Petitioner and her daughter. Petitioner reported employment with ██████████ ██████████ 40 hours per week at ██████████ per hour, paid biweekly. (Exhibit A, pp. 7-12)
2. The Department calculated a gross monthly income of ██████████ for the ██████████ ██████████ employment. (Exhibit A, p. 3)

3. On December 9, 2022, an Appointment Notice was issued to Petitioner scheduling a telephone interview for December 16, 2022 between 8:00 and 10:00 a.m. (Exhibit A, p. 13)
4. On December 16, 2022, the worker tried to call Petitioner twice to complete the interview and a message was left. (Exhibit A, p. 56)
5. A January 9, 2023 comment notes no interview was completed and CDC was denied effective December 4, 2022 and ongoing. (Exhibit A, p. 56)
6. When the [REDACTED] 2022 CDC application was processed, the child's father, Nicholas Vanglider (NV) was included in the household. NV works at [REDACTED] and his income had been updated on the case in April 2022 as [REDACTED] per month. (Exhibit A, pp. 3 and 18)
7. The income for Petitioner and NV was combined resulting in a total monthly income of [REDACTED], which exceeded the monthly income limit for a group size of three of \$3,838.00. (Exhibit A, pp. 3 and 18-19)
8. On January 9, 2023, a Notice of Case Action was issued to Petitioner stating CDC was denied due to gross income in excess of the program limits. (Exhibit A, pp. 14-17)
9. On [REDACTED] 2023, Petitioner applied for CDC for a household of two, Petitioner and her daughter. Petitioner reported employment with [REDACTED] 40 hours per week at [REDACTED] per hour, paid biweekly. A paystub was submitted showing a gross amount of [REDACTED] (Exhibit A, pp. 20-26)
10. On January 27, 2023, a telephone interview was completed with Petitioner. It was reported that NV was in the home and still employed with [REDACTED], yearly salary [REDACTED]. Petitioner reported her last paycheck with [REDACTED] was January 6, 2023. (Exhibit A, pp. 28-34)
11. The Department confirmed Petitioner's last paycheck with [REDACTED] was January 6, 2023 for [REDACTED]. (Exhibit A, pp. 43-48)
12. The Department calculated gross monthly income amounts of [REDACTED] and [REDACTED] for the [REDACTED] employment. (Exhibit A, pp. 49-50)
13. The Department confirmed NV's income from employment with [REDACTED] and calculated a gross monthly income of [REDACTED]. (Exhibit A, pp. 51-55)
14. The income for Petitioner and NV was combined resulting in a total monthly income of [REDACTED] for the period of January 15, 2023 to January 28, 2023, which exceeded the monthly income limit for a group size of three of \$3,838.00. (Exhibit A, pp. 39-40)

15. The income for Petitioner and NV was combined resulting in a total monthly income of [REDACTED], for the period of January 29, 2023 to February 11, 2023, which exceeded the monthly income limit for a group size of three of \$3,838.00. (Exhibit A, pp. 41-42)
16. On January 27, 2023, a Notice of Case Action was issued to Petitioner stating CDC was denied due to gross income in excess of the program limits. (Exhibit A, pp. 34-38)
17. On February 10, 2023, Petitioner filed a hearing request contesting the Department's determination. (Exhibit A, p. 5)

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.

For CDC, when they are living together, a child's legal and/or biological parent(s) must be included in the program group. BEM 205, October 1, 2017, p. 1.

For CDC, the Department uses the gross (before deductions) countable, monthly income to determine income eligibility and the family contribution. BEM 525, November 1, 2021, p. 1.

At the time of the January 2023, determinations, the maximum monthly gross income for a family size of 3 for entry into the CDC program was \$3,838.00. RFT 270, October 1, 2022, p. 1.

On [REDACTED] 2022, Petitioner applied for CDC for a household of two, Petitioner and her daughter. Petitioner reported employment with [REDACTED] [REDACTED], 40 hours per week at [REDACTED] per hour, paid biweekly. (Exhibit A, pp. 7-12). The Department calculated a gross monthly income of [REDACTED] for the [REDACTED] employment. (Exhibit A, pp. 3 and 18).

On December 9, 2022, an Appointment Notice was issued to Petitioner scheduling a telephone interview for December 16, 2022 between 8:00 a.m. and 10:00 a.m. (Exhibit A, p. 13). On December 16, 2022, the worker tried to call Petitioner twice to complete the interview and a message was left. (Exhibit A, p. 56). A January 9, 2023 comment notes no interview was completed and CDC was denied effective December 4, 2022 and ongoing. (Exhibit A, p. 56).

However, when the [REDACTED] 2022 CDC application was processed, the child's father, [REDACTED] (NV) was included in the household. NV works at [REDACTED] and his income had been updated on the case in April 2022 as [REDACTED] per month. (Exhibit A, pp. 3 and 18). The income for Petitioner and NV was combined resulting in a total monthly income of [REDACTED], which exceeded the monthly income limit for a group size of three of \$3,838.00. (Exhibit A, pp. 3 and 18-19). On January 9, 2023, a Notice of Case Action was issued to Petitioner stating CDC was denied due to gross income in excess of the program limits. (Exhibit A, pp. 14-17).

On [REDACTED] 2023, Petitioner applied for CDC for a household of two, Petitioner and her daughter. Petitioner reported employment with [REDACTED] 40 hours per week at [REDACTED] per hour, paid biweekly. A paystub was submitted showing a gross amount of [REDACTED]. (Exhibit A, pp. 20-26). On January 27, 2023, a telephone interview was completed with Petitioner. It was reported that NV was in the home and still employed with [REDACTED], yearly salary [REDACTED]. Petitioner reported her last paycheck with [REDACTED] was January 6, 2023. (Exhibit A, pp. 28-34). The Department confirmed Petitioner's last paycheck with [REDACTED] was January 6, 2023 for [REDACTED]. (Exhibit A, pp. 43-48). The Department calculated gross monthly income amounts of [REDACTED] and [REDACTED] for the [REDACTED] employment. (Exhibit A, pp. 49-50). The Department confirmed NV's income from employment with [REDACTED] and calculated a gross monthly income of [REDACTED]. (Exhibit A, pp. 51-55). The income for Petitioner and NV was combined resulting in a total monthly income of [REDACTED], for the period of January 15, 2023 to January 28, 2023, which exceeded the monthly income limit for a group size of three of \$3,838.00. (Exhibit A, pp. 39-40). The income for Petitioner and NV was combined resulting in a total monthly income of [REDACTED], for the period of January 29, 2023 to February 11, 2023, which exceeded the monthly income limit for a group size of three of \$3,838.00. (Exhibit A, pp. 41-42). On January 27, 2023, a Notice of Case Action was issued to Petitioner stating CDC was denied due to gross income in excess of the program limits. (Exhibit A, pp. 34-38).

Petitioner testified that NV pays the household bills and his own bills, but does not help take care of Petitioner's bills and school or the child's daycare. Petitioner does not make enough to cover her bills and school as well as paying daycare. Petitioner is almost two months behind on all of her bills. If Petitioner is not working, NV does not make enough to pay the household bills as well as daycare for Petitioner to be able to go to school. (Petitioner Testimony).

However, under the above BEM policies, the Department was required to include NV as a program group member and include his income in the CDC budget to determine


eligibility. This Administrative Law judge is limited to reviewing the Department's determination under the existing policy and cannot change or make any exceptions to the Department policy. The CDC group was over the applicable income limit when the gross income of both parents, who are both mandatory group members, is considered.

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 applications for CDC.

DECISION AND ORDER

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

CL/ml



Colleen Lack
Administrative Law Judge

