



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: May 11, 2023  
MOAHR Docket No.: 23-001513  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun**

### **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 April 12, 2023, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Corlette Brown, Hearing Facilitator and Margo Sherman, Family Independence Specialist.

### **ISSUE**

Did the Department properly close Petitioner's Family Independence Program (FIP) and Child Development and Care (CDC) cases?

### **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 is the unrelated caretaker of two minor children. On or around November 21, 2022, the children's mother signed a Power of Attorney designating Petitioner parental power over the children. (Exhibit A, 15-19)
2. On or around [REDACTED] 2022, Petitioner submitted an application requesting FIP and CDC benefits for the children.
3. On an unverified date, the Department sent Petitioner a Notice of Case Action approving the request for FIP and CDC benefits.
4. Petitioner received FIP benefits from the Department. However, although she was approved for CDC benefits, due to an issue with the CDC Provider ID being expired, the children's CDC provider could not bill or receive payment for services.

5. The Department became aware that Petitioner was not an eligible or qualifying caretaker for purposes of the FIP and CDC programs and initiated the closure of her cases.
6. On or around February 13, 2023, the Department sent Petitioner a Notice of Case Action advising her that effective March 1, 2023, ongoing, her FIP case would be closed because the group does not meet program requirements. The Notice of Case Action further advised Petitioner that her CDC case would be closed because the applicant does not act as a parent/caretaker relative of a dependent child. (Exhibit A, pp.6-13)
7. On or around March 2, 2023, Petitioner requested a hearing disputing the closure of her FIP and CDC cases. (Exhibit A, pp. 3-4)

### **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 Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Pub. L. No. 104-193, and 42 USC 601 to 679c. The Department (formerly known as the Department of Human Services) administers FIP pursuant to 45 CFR 233-260, MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3101-.3131.

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.

As a condition of receiving FIP benefits, the group must include a dependent child who lives with a legal parent, stepparent, or other qualifying caretaker. A caretaker is a legal parent or stepparent living in the home, or when no legal parent or stepparent lives in the home, another adult who acts as a parent to a dependent child by providing physical care and supervision. BEM 210 (July 2021), pp.1-20. A caretaker in the child's home, other than a parent or stepparent must be one of the following: a relative who is at least 18 and legally related to the child by blood, marriage, or adoption; the child's legal guardian; an adult who is at least age 21 and whose petition for legal guardianship of the child is pending; an adult, having none of the qualifying relationships above, with whom MDHHS children services has placed a child, subsequent to a court order

identifying and DHHS as responsible for the child care and supervision (unrelated caregiver, formerly fictive kin). BEM 210 (July 2021), pp.1-20.

For CDC cases, the applicant must live with the children for whom care is requested and must be one of the following in relation to the children needing care: parent, stepparent, or foster parent of the child; another related person acting as caretaker to the child; legal guardian of the child; an unrelated adult who is at least age 21 and whose petition for legal guardianship of the child is pending; an unrelated adult with whom MDHHS children's services has placed a child, subsequent to a court order identifying MDHHS as responsible for the child care and supervision; or the FIP grantee for the child. BEM 205 (October 2017), pp. 1-3. Additionally, at application, each parent or substitute parent must demonstrate a valid need reason. A parent or substitute parent means the following persons who live in the home and are unavailable to care for the child due to a valid need reason: the child's legal or biological parents; the child's stepparent; the child's foster parent; the child's legal guardian; or the applicant if the child has no parent, stepparent, or legal guardian who lives in the home. BEM 713 (January 2023), pp. 1-17.

In this case, Petitioner disputed the closure of her FIP and CDC cases. The Department representative testified that Petitioner's [REDACTED] 2022, FIP and CDC application was approved in error. The Department representative testified that Petitioner's application should not have been approved because she is not an eligible or qualifying caretaker as she does not meet the criteria outlined in policy. The Department representative testified that although Petitioner had a Power of Attorney signed by the children's mother, because Petitioner was not a legal guardian at the time of the application and was unrelated to the children, she did not meet the criteria outlined above with respect to eligibility for FIP and CDC benefits.

At the hearing, Petitioner confirmed that at the time of her [REDACTED] 2022 application for FIP and CDC benefits, she was not legally related to the children by blood, marriage, or adoption, and that she had not submitted a petition for legal guardianship of the children, and further that the children were not placed in her care in accordance with a court order. Petitioner testified that she submitted the Power of Attorney at the time of her application and was told that it would be sufficient to meet the criteria for FIP and CDC benefits. Petitioner confirmed that she submitted a petition for legal guardianship in the probate court on or around [REDACTED] 2023, and the application was pending as of the hearing date. Although Petitioner's current eligibility for FIP and CDC may have changed based on the petition for legal guardianship, at the time of the application in [REDACTED] 2022, and at the time the Department initiated the closure of her FIP and CDC cases, Petitioner was not eligible to receive benefits for the children as she was not a parent or qualifying caretaker or parent substitute. Additionally, because Petitioner was not eligible for CDC benefits as her application was approved in error, Petitioner and/or her CDC provider are not entitled to receive back payment.

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 closed Petitioner's FIP and CDC cases.

**DECISION AND ORDER**

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

ZB/ml

  
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**Zainab A. Baydoun**  
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**

Corlette Brown  
Wayne-District 31 (Grandmont)  
17455 Grand River  
Detroit, MI 48227

**MDHHS-Wayne-31-Grandmont-Hearings@Michigan.gov**

**Interested Parties**

BSC4  
L Brewer-Walraven  
B Sanborn  
MOAHR

**Via First Class Mail:**

**Petitioner**

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