



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: June 27, 2023
MOAHR Docket No.: 23-002816
Agency No.: ██████████
Petitioner: ██████████ ██████████

ADMINISTRATIVE LAW JUDGE: Danielle Nuccio

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 June 21, 2023. The Petitioner appeared and represented herself. The Department of Health and Human Services (MDHHS) was represented by Nicole Taylor, Assistant Payments Supervisor.

ISSUES

1. Did MDHHS properly process Petitioner’s Food Assistance Program (FAP) case?
2. Did MDHHS properly deny Petitioner’s Child Development and Care (CDC) application?

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 or about ██████ ██████ 2023, Petitioner applied for FAP and CDC benefits for a group size of two, consisting of her minor child and herself.
2. Petitioner is employed for the ██████████ ██████████ ██████████ ██████████ (Employer), working 40 hours per week, earning \$████████ per hour, and is paid bi-weekly.
3. On May 11, 2023, MDHHS issued a Notice of Case Action to Petitioner, informing her that her CDC case was denied because she failed to cooperate with the Office of Child Support (OCS) and that her gross income exceeds the entry limit for CDC. MDHHS informed Petitioner that her FAP case was approved for a group size of one, consisting of only her minor child. Petitioner was not approved to receive FAP benefits herself, due to failing to cooperate with OCS (Exhibit A, pp. 22-30).

4. Petitioner was deemed to be in non-cooperation status with OCS. MDHHS discovered that this was in error and placed Petitioner in compliance status, effective February 11, 2023.
5. On May 12, 2023, MDHHS issued a Notice of Case Action to Petitioner, informing her that her CDC application was denied due to excess gross income (Exhibit A, pp. 32-36).
6. MDHHS did not adjust Petitioner's FAP case based on her cooperation status with OCS.
7. On May 22, 2023, MDHHS received Petitioner's timely filed hearing request, disputing the denial of her CDC application and approval for FAP for only a group size of one (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).

Food Assistance Program (FAP)

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.

Petitioner was approved for FAP for a group size of one, consisting of only her minor child. Petitioner was deemed to be disqualified from receiving FAP due to being in non-cooperation status with OCS. A disqualified person is one who is ineligible for FAP because the person refuses or fails to cooperate in meeting an eligibility factor. Individuals are disqualified for failure to cooperate with OCS. BEM 212 (January 2022), p. 8; BEM 255 (April 2023), p. 2. However, MDHHS realized that Petitioner was in non-cooperation status in error but failed to update Petitioner's FAP case to a group size of two. MDHHS conceded this error at the hearing. Therefore, MDHHS failed to act in accordance with policy in issuing FAP benefits to Petitioner for only a group size of one.

Child Development and Care (CDC)

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 discussed, MDHHS erred in disqualifying Petitioner from receiving benefits due to non-cooperation with OCS. MDHHS updated Petitioner's CDC application to reflect that she is now in cooperation status with OCS. MDHHS then determined that Petitioner was over the gross income limit to be eligible for CDC. Petitioner disputes the denial of her CDC application.

If a child does not qualify for one of the CDC protective services groups (cases with children's protective services, foster care, Family Independence Program, migrant farmworkers, or homelessness), the group must pass the CDC income eligibility test. BEM 703 (January 2023) p. 16. For income eligible determinations, the income of all program group members must be considered. BEM 525 (November 2021), p. 1. Income eligible families may have a co-payment amount called a family contribution. MDHHS uses the gross (before deductions) countable, monthly income to determine income eligibility and the family contribution. To be eligible for the CDC program at application, a program group's countable gross monthly income must not exceed the maximum monthly gross income limit by family size associated with the program entry limit (\$15 Family Contribution category). BEM 703, p. 16. After initial eligibility has been determined, a family's income must not exceed the maximum monthly gross income eligibility limit by family size associated with the program exit limit. BEM 703, p. 16.

In this case, Petitioner's group size is two, consisting of her minor child and herself. No evidence was presented that Petitioner qualifies for one of the CDC protective services groups; therefore, she is subject to the income eligibility test. Petitioner is employed, working 40 hours per week, paid \$[REDACTED] per hour, and is paid bi-weekly. Only countable income is included in the determination of CDC eligibility. Each source of income is converted to a standard monthly amount unless a full month's income will not be received. BEM 505 (October 2022), p. 1. MDHHS converts earned income received bi-weekly to a standard monthly amount by multiplying the bi-weekly average amount by 2.15. BEM 505, p. 8. In Petitioner's case, she earns on average \$[REDACTED] each week. When converted to a standard monthly amount, this results in \$[REDACTED]. MDHHS testified that they calculated Petitioner's earned income amount based upon her biweekly pay of \$[REDACTED] then multiplied by 2.15. However, MDHHS must take the *average* from Petitioner's bi-weekly pay then convert to a standard monthly amount, rather than the *total* of Petitioner's bi-weekly pay. MDHHS appeared to calculate Petitioner's earned income correctly in her FAP budget, as evidenced on the Notice of Case Action issued on May 11, 2023 (see Exhibit A, p. 24). When considering Petitioner's earned income calculated correctly, she is below the income limit for CDC eligibility. Therefore, MDHHS did not act in accordance with policy in denying Petitioner's CDC application.

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 approved Petitioner for FAP for a group size of one and when it denied Petitioner's application for CDC.

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. Reregister Petitioner's FAP application.
2. Reprocess the application/recalculate the FAP budget for ■■■■■ 2023, ongoing, for a group size of two consistent with policy and this hearing decision.
3. If Petitioner is eligible for benefits, issue supplements to Petitioner for any FAP benefits she was eligible to receive but did not from ■■■■■ 2023, ongoing.
4. Reregister Petitioner's CDC application.
5. Reprocess the application/recalculate the CDC budget for ■■■■■ 2023, ongoing, consistent with policy and this hearing decision.
6. If Petitioner is eligible for benefits, issue supplements to Petitioner for any CDC benefits she was eligible to receive but did not from ■■■■■ 2023, ongoing.
7. Notify Petitioner of its decision in writing.



DN/nr

Danielle Nuccio
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
Denise Key-McCoggle
Wayne-Greydale-DHHS
27260 Plymouth Rd
Redford, MI 48239
**MDHHS-Wayne-15-Greydale-
Hearings@michigan.gov**

Interested Parties
Wayne 15 County DHHS
BSC4
M. Holden
D. Sweeney
L. Brewer-Walraven
MOAHR

Via-First Class Mail :

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