



GRETCHEN WHITMER  
GOVERNOR

STATE OF MICHIGAN  
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS  
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES  
SUZANNE SONNEBORN  
EXECUTIVE DIRECTOR

MARLON I. BROWN, DPA  
ACTING DIRECTOR

████████████████████  
████████████████████  
██████████ MI ██████████

Date Mailed: September 22, 2023  
MOAHR Docket No.: 23-004786  
Agency No.: ██████████  
Petitioner: ██████████

**ADMINISTRATIVE LAW JUDGE: Linda Jordan**

**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 hearing was held on September 14, 2023 via teleconference. Petitioner appeared and represented herself. The Michigan Department of Health and Human Services (MDHHS or Department) did not appear.

**ISSUES**

1. Did MDHHS properly terminate Petitioner's Child Development and Care (CDC) benefits?
2. Did MDHHS properly determine Petitioner's Food Assistance Program (FAP) benefit rate?

**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 was an ongoing recipient of CDC and FAP benefits.
2. On July 13, 2023, MDHHS sent Petitioner a Verification Checklist (VCL) requesting proof of employment to demonstrate need for CDC and employment information for household member, ██████████ (Son) (Exhibit 1, pp. 22-23).

3. On July 18, 2023, Petitioner submitted a change report to MDHHS, indicating that Son was no longer working at [REDACTED] (Employer) as of July 2, 2023 (Exhibit A, p. 30).
4. On July 28, 2023, MDHHS sent Petitioner a CDC Proof of Education Form (Exhibit A, p. 52).
5. On August 8, 2023, MDHHS sent Petitioner a Notice of Case Action indicating that her CDC case was closed, effective June 18, 2023 ongoing, and her FAP case was closed, effective August 1, 2023 ongoing (Exhibit 1, pp. 12-13). Various reasons were provided for the closure of the CDC benefits, including individual not eligible due to not being up-to-date on vaccinations, no need for child day care services due to employment, education or family preservation reasons and individual not eligible because he/she does not meet CDC requirements (Exhibit 1, p. 14). The reason given for the FAP closure was that a verification of loss of employment was not returned for Son (Exhibit 1, p. 15).
6. On August 11, 2023, MDHHS reinstated Petitioner's FAP benefits at a decreased rate of \$ [REDACTED] per month (Exhibit 1, p. 1).
7. On August 11, 2023, Petitioner filed a Request for Hearing to dispute the termination of her CDC benefits and the calculation of her FAP benefit rate (Exhibit 1, pp. 3-6).

### **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).

MDHHS did not appear at the hearing. The following decision is based on the Petitioner's testimony and the contents of the Hearing Packet that MDHHS prepared for the hearing, which was admitted into the record as Petitioner's Exhibit 1 at the hearing.

#### **The Child Development and Care (CDC) Program**

CDC 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, MDHHS terminated Petitioner's CDC benefits. Although various reasons for the termination were listed on the Notice of Case Action, according to the Hearing

Summary prepared by MDHHS, the CDC benefits were terminated for failure to provide proof of need and income (Exhibit 1, p. 1).

MDHHS is required to obtain verification when required by policy and when information regarding an eligibility factor is unclear, inconsistent, incomplete or contradictory. BAM 130 (January 2023), p. 1. To obtain verifications, MDHHS must tell the client what verification is needed, how to obtain it and the due date. *Id.*, p. 3. The client must obtain the required verification, but the local office must assist if they need help. *Id.* If neither the client nor the local office can obtain verification despite reasonable effort, MDHHS is required to use the best available information. *Id.* Verifications are considered timely if received by the date they are due. *Id.*, p. 7. For CDC, if the client cannot provide the verification despite reasonable effort, MDHHS must extend the time limit at least once. *Id.* MDHHS sends a negative action notice if the client refuses to provide the verification or the time period for returning the verification has lapsed and the client has not made a reasonable effort to provide it. *Id.*

Here, MDHHS sent Petitioner a VCL requesting proof of employment for Respondent and Son, and CDC Proof of Education Form. At the hearing, Petitioner testified that she attempted to comply with information requests to the best of her ability and that she reached out to MDHHS for assistance. Regarding Son's income, Petitioner stated that he stopped working at Employer as of July 2, 2023 and that he was currently enrolled in community college. Regarding Petitioner's educational activities, she testified that she was enrolled in a certificate class online and that she sent MDHHS a screenshot of an e-mail stating that she was enrolled in the course. However, she was unable to provide a schedule from the online course and was not sure what else she could send to MDHHS. She discussed the matter with an MDHHS representative; however, the representative did not provide any assistance in obtaining the necessary information.

The record shows that Petitioner attempted to comply with the request for information and that she sought assistance from MDHHS. No evidence was provided to show that MDHHS assisted or attempted to assist Petitioner in obtaining the necessary information or that it granted her an extension of the time limit to provide the information.

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 MDHHS failed to satisfy its burden of showing that it acted in accordance with Department policy when it terminated Petitioner's CDC benefits.

#### **The Food Assistance Program (FAP)**

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. MDHHS administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

In this case, Petitioner disputed MDHHS' determination that she was eligible for \$[REDACTED] per month in FAP benefits, which represented a decrease in her FAP benefit rate. FAP beneficiaries are entitled to dispute the benefit amount whenever they believe that the amount is incorrect. BAM 600 (March 2021), p. 5.

To determine whether MDHHS properly calculated Petitioner's FAP benefit amount, it is necessary to evaluate the household's countable income. BEM 500 (April 2022), pp. 1-5. MDHHS determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (October 2022), p. 1. For the purposes of FAP, MDHHS must convert income that is received more often than monthly into a standard monthly amount. BEM 505, pp. 8-9. Child Support is money paid by an absent parent(s) for the living expenses of a child(ren). BEM 503 (January 2023), pp. 6-7. Medical, dental, child care and educational expenses may also be included. *Id.* Court-ordered child support may be either certified or direct. *Id.* Certified support is retained by the state due to the child's FIP activity. *Id.* Direct support is paid to the client. *Id.* Child support is income to the child for whom the support is paid. *Id.* MDHHS uses the average of child support payments received in the past three calendar months unless changes are expected. BEM 505, p. 4.

MDHHS budgeted \$1,280.00 in countable unearned income for Petitioner. Petitioner disputed this amount and stated MDHHS miscalculated the child support income she received. MDHHS was not at the hearing to explain how it calculated Petitioner's child support income, and thus, it did not establish that it properly calculated Petitioner's income and her FAP benefit rate.

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 MDHHS failed to satisfy its burden of showing that it acted in accordance with Department policy when it calculated Petitioner's FAP benefit rate.

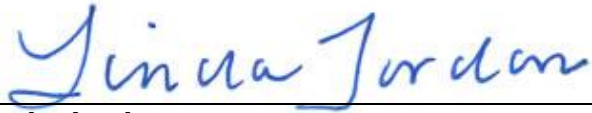
### **DECISION AND ORDER**

Accordingly, MDHHS' decisions are **REVERSED**.

MDHHS 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. Reinstate Petitioner's CDC case and redetermine her eligibility for CDC benefits, effective June 18, 2023 ongoing, requesting additional verification and providing assistance in obtaining the verifications, if necessary;
2. Issue supplemental payments to Petitioner or Petitioner's provider(s) for any CDC benefits that she was eligible to receive but did not, from June 18, 2023 ongoing;

3. Redetermine Petitioner's FAP benefit rate, effective August 1, 2023, requesting additional verifications from Petitioner, if necessary;
4. Issue supplemental payments to Petitioner for any FAP benefits that she was entitled to receive but did not from August 1, 2023 ongoing; and
5. Notify Petitioner in writing of its decisions.



---

**Linda Jordan**  
Administrative Law Judge

LJ/tm

**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**  
Trista Waishkey  
Washtenaw County DHHS  
22 Center Street  
Ypsilanti, MI 48198  
**MDHHS-Washtenaw-  
Hearings@michigan.gov**

**Interested Parties**  
M. Holden  
D. Sweeney  
BSC4

**Via-First Class Mail :**

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