



STATE OF MICHIGAN

GRETCHEN WHITMER
GOVERNOR

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

MARLON I. BROWN, DPA
ACTING DIRECTOR



Date Mailed: October 3, 2023
MOAHR Docket No.: 23-005018
Agency No.: [REDACTED]
Petitioner: [REDACTED]

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 September 19, 2023, from Lansing, Michigan. The Petitioner was represented by herself. The Department of Health and Human Services (Department) was represented by Alberta Frazier. Department Exhibit 1, pp. 1-20 was received and admitted.

ISSUE

Did the Department properly close Petitioner's Family Independence Program (FIP) case and deny Petitioner's Child Development and Care (CDC) application for failing to verify self-employment income?

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 a recipient of FIP benefits.
2. Petitioner applied for CDC.
3. On July 11, 2023, an email was sent from [REDACTED] to Petitioner with a reference to Petitioner earning [REDACTED] estimated self-employment income. This email was forwarded to the Department. (Ex. 1, p.11)
4. On July 11, 2023, a Verification Checklist was sent to Petitioner requesting verification of self-employment income.

5. On July 31, 2023, a Change Report was sent to Petitioner requesting verifications of self-employment income.
6. On July 31, 2023, Notice of Case Action was sent to Petitioner informing that her FIP and CDC were denied.
7. On August 23, 2023, Petitioner requested hearing disputing the closure of FIP benefits.
8. Petitioner credibly testified at hearing that she does not earn [REDACTED] in self-employment income.

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.

Timeliness of Verifications

FIP, SDA, RCA, Child Development and Care (CDC), FAP Allow the client 10 calendar days (or other time limit specified in policy) to provide the verification that is requested. Exception: For CDC, if the client cannot provide the verification despite a reasonable effort, extend the time limit at least once. Exception: For CDC, at redetermination, if a signed redetermination form is received prior to the end of the redetermination month, and verifications are missing or incomplete, send a VCL. Verifications are due by the end of the redetermination month, or within 10 days after they are requested, which ever allows more time. Verifications are considered to be timely if received by the date they are due. For electronically transmitted verifications (fax, email or Mi Bridges document upload), the date of the transmission is the receipt date. Verifications that are submitted after the close of regular business hours through the drop box or by delivery

of a MDHHS representative are considered to be received the next business day. Send a negative action notice when:

- The client indicates refusal to provide a verification, or
- The time period given has elapsed and the client has not made a reasonable effort to provide it. BAM 130

In this case, on July 11, 2023, the Department was forwarded an email that purported to show that Petitioner had [REDACTED] per month in self-employment income. (Ex. 1, p.11) Based on that, a Verification Checklist was sent to Petitioner requesting verification of self-employment income. The Department representative could not explain where the email came from and provided no evidence to show that Petitioner earned [REDACTED] per month in employment income. Petitioner credibly testified at hearing that she does not earn [REDACTED] per month in self-employment income. Petitioner had no way to verify that she did not have self-employment income because you cannot prove a negative. The Department failed to establish that there was a reasonable basis to request self-employment verifications from Petitioner.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's FIP case and denied her CDC application for failing to return self-employment verifications.

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. Reinstate Petitioner's FIP case going back to the date of closure.
2. Issue a supplement for any missed FIP benefits.
3. Reinstate and reprocess Petitioner's CDC application going back to the date of application.

AM/ml



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

Denise Key-McCoggle
Wayne-Greydale-DHHS
27260 Plymouth Rd
Redford, MI 48239

MDHHS-Wayne-15-Greydale-Hearings@michigan.gov

Interested Parties

BSC4
B Sanborn
L Brewer-Walraven
MOAHR

Via First Class Mail:

Petitioner

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