



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

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

Date Mailed: October 17, 2023
MOAHR Docket No.: 23-005801
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Ellen McLemore

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 October 16, 2023, via conference line. Petitioner was present and was unrepresented. The Department of Health and Human Services (Department) was represented by Angelica Blair, Case Worker.

ISSUE

Did the Department properly close Petitioner's Food Assistance Program (FAP) and Child Development and Care (CDC) benefit 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 was an ongoing FAP and CDC recipient.
2. On June 22, 2023, Petitioner completed a redetermination related to her FAP and CDC benefit cases (Exhibit A, pp. 7-11).
3. Petitioner's household consisted of herself and her minor child.
4. Petitioner had income from employment (Exhibit A, pp. 20-22).

5. On August 31, 2023, the Department sent Petitioner a Notice of Case Action informing Petitioner that her CDC benefit case was closing effective September 24, 2023, ongoing, and her FAP benefit case was closing effective October 1, 2023, ongoing, due to excess income (Exhibit A, pp. 27-32).
6. On September 14, 2023, Petitioner submitted a request for hearing disputing the Department's actions.

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).

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.

In this case, Petitioner completed a redetermination related to her FAP benefit case in June 2023. The Department determined that Petitioner exceeded the gross income limit for her group size. A non-categorically eligible, non-SDV FAP group must have income below the gross and net income limits. BEM 550 (January 2017), p. 1. Gross income limitations are based on group size and are set forth in RFT 250.

All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits and group composition policies specify whose income is countable. BEM 500 (January 2016), p. 1-5. The Department 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 (April 2017), p. 1. In prospecting income, the Department is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, p. 5-7. A standard monthly amount must be determined for each income source used in the budget. BEM 505, p. 8-9. Income received twice per month is added together. BEM 505, p. 8. Income received biweekly is converted to a standard amount by multiplying the average of the biweekly pay amounts by the 2.15 multiplier. Income received weekly is converted to a standard amount by multiplying the average of the weekly pay amounts by the 4.3 multiplier. BEM 505, pp. 7-9.

The Department presented the work number reported from Petitioner's income from employment. The work number shows Petitioner was paid \$ [REDACTED] on a biweekly basis. Petitioner's biweekly income multiplied by the 2.15 multiplier is \$ [REDACTED]. Therefore, the Department properly determined Petitioner's household gross income is \$ [REDACTED].

Because all FAP applicants and recipients are eligible for enhanced authorization for Domestic Violence Prevention Services (DVPS), the monthly categorical income limit (200% of the poverty level), from RFT 250, column D (October 2022), p. 1, applies as the standard for FAP gross income eligibility. BEM 213 (January 2016), pp. 1-2. For a two-person FAP group, the applicable 200% gross income limit is \$3,052. As Petitioner's household gross income was \$ [REDACTED] the gross income limit for FAP eligibility was exceeded. Thus, Petitioner is not entitled to FAP benefits and the Department properly closed her FAP benefit case.

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.

In this case, Petitioner was an ongoing CDC recipient. As a result of the redetermination, the Department determined that Petitioner's income exceeded the income limit for her group size.

Eligibility for CDC is based on program group size and non-excluded income received by any member of the group. BEM 703 (January 2023), p. 16. To be eligible for the Child Development and Care (CDC) program at application, a family's 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). RFT 270 (October 2017), p. 1. 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. For income limit and family contribution amounts; see RFT 270. BEM 703, p. 16.

Petitioner lived with her minor child. Therefore, Petitioner's has a CDC group size of 2. BEM 205, pp.1-2. The income limit at exit for an ongoing recipient for a group size of two at the time the Notice of Case Action was issued was \$4,503. Effective October 1, 2023, the income limit for a group size of two was \$4,966. The Department presented a CDC budget to establish Petitioner exceeded the income limit for CDC benefits (Exhibit A, p. 33).

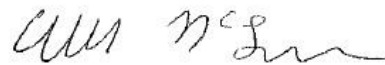
All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits. Group composition policies specify whose income is countable. BEM 500 (January 2016), pp. 1-5. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (April 2017), pp. 1-2. In prospecting income, the Department is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, pp. 5-6. A standard monthly amount must be determined for each income source used in the budget. BEM 505, pp. 7-8. Income received biweekly is converted to a standard amount by multiplying the average of the biweekly pay amounts by the 2.15 multiplier. Income received weekly is converted to a standard amount by multiplying the average of the weekly pay amounts by the 4.3 multiplier. BEM 505, pp. 7-9. An employee's wages include salaries, tips, commissions, bonuses, severance pay and flexible benefit funds not used to purchase insurance. BEM 501 (July 2017), p. 6. The Department counts gross wages in the calculation of earned income. BEM 501, p. 7.

As stated above, the Department properly determined that Petitioner's household gross income was \$██████ per month. Therefore, Petitioner exceeded the income limit for her group size under the CDC program. Thus, the Department acted in accordance with Department policy when it closed Petitioner's CDC benefit case.

DECISION AND ORDER

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 FAP and CDC benefit cases. Accordingly, the Department's decisions are **AFFIRMED**.

EM/tm



Ellen McLemore
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
Chelsea McCune
Macomb County DHHS Warren Dist.
13041 E 10 Mile
Warren, MI 48089
**MDHHS-Macomb-20-
Hearings@michigan.gov**

L. Brewer-Walraven
M. Holden
D. Sweeney
BSC4

Via-First Class Mail :

Petitioner
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