



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], MI [REDACTED]

Date Mailed: December 21, 2023
MOAHR Docket No.: 23-006596
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

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 via telephone conference line on December 6, 2023. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Corlette Brown, hearings facilitator, and Nisan Fortson, specialist.

ISSUES

The first issue is whether MDHHS properly terminated Petitioner's Child Development and Care (CDC) eligibility.

The second issue is whether MDHHS properly determined Petitioner's CDC hours.

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 July 12, 2022, MDHHS approved Petitioner for CDC benefits through August 12, 2023, for 90 hours per pay period.
2. On July 12, 2023, MDHHS mailed Petitioner a Verification Checklist (VCL) requesting proof of Petitioner's employment hours by July 24, 2023.
3. On July 31, 2023, MDHHS terminated Petitioner's CDC eligibility beginning July 16, 2023, due to a failure to verify wages.

4. On August 18, 2023, Petitioner submitted to MDHHS two pay documents stating that Petitioner works 40 hours every two weeks.
5. On September 6, 2023, MDHHS approved Petitioner for 60 hours of CDC benefits beginning August 12, 2023.
6. On an unspecified date, Petitioner reported to MDHHS that he requires more than 60 hours of hours of CDC every two weeks for travel time.
7. On October 3, 2023, Petitioner requested a hearing to dispute the termination of CDC benefits beginning July 16, 2023, and the reduction in approved CDC hours beginning September 6, 2023.

CONCLUSIONS OF LAW

The 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 CDC program is implemented by 45 CFR 98.1-99.33. MDHHS administers the CDC 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. CDC policies are contained in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT).

Petitioner requested a hearing, in part, to dispute a termination of CDC benefits. Exhibit A, pp. 3-4. A Notice of Case Action dated July 31, 2023, stated that Petitioner's CDC eligibility would end July 16, 2023, due to Petitioner's failure to verify employment hours. Exhibit A, pp. 32-37.

As of July 2023, Petitioner was an ongoing recipient of CDC benefits since at least 2022. A Notice of Case Action dated July 12, 2022, approved Petitioner for a 12-month CDC benefit period ending August 12, 2023. MDHHS's terminated Petitioner's CDC eligibility beginning July 16, 2023, as part of a benefit redetermination. A redetermination for CDC cannot be completed earlier than the 12-month continuous eligibility period. BAM 210 (October 2022) p. 4 and 10. Because MDHHS terminated Petitioner's CDC benefits as part of a redetermination before the end of the redetermination period, MDHHS improperly terminated Petitioner's CDC benefits beginning July 16, 2023.

For good measure, MDHHS also improperly terminated Petitioner's CDC eligibility by failing in its CDC redetermination procedures. If redetermination verifications are not returned in the review month, or are returned incomplete, MDHHS is to send a VCL. BAM 210 (October 2022) p. 18. If the redetermination verifications are not received by the VCL due date, MDHHS is to give the client two 10-day extensions, resending VCLs after each verification due date. *Id.*

MDHHS alleged Petitioner's CDC eligibility properly ended after Petitioner failed to timely return verification of employment hours. A VCL dated July 12, 2023, requested proof of Petitioner's employment hours by July 24, 2023. Assuming that Petitioner did not submit employment hours to MDHHS by July 24, 2023, MDHHS still should not have terminated CDC benefits on July 31, 2023.¹ MDHHS should have issued two additional VCLs giving Petitioner an opportunity to return proof of employment hours.

Given the evidence, MDHHS improperly terminated Petitioner's CDC benefits beginning July 16, 2023. As a remedy Petitioner is entitled to a reinstatement of CDC benefits beginning July 16, 2023.

Petitioner also requested a hearing to dispute CDC hours. Petitioner acknowledged that income documents accurately reflected that he worked 40 hours every two weeks. Exhibit A, pp. 20-21. Petitioner contended he was entitled to 90 hours of CDC benefits every two weeks due to travel time. A Notice of Case Action dated September 6, 2023, approved Petitioner for 60 CDC biweekly hours beginning August 12, 2023.² Exhibit A, pp. 6-12.

MDHHS is to determine the valid need hours for each parent/substitute parent (P/SP) at application, redetermination, and when a change in work or activity hours is reported that results in a positive change. BEM 710 (October 2017) p. 2. MDHHS is to calculate need hours by factoring the following:

- Time spent in the activity.
- Meal periods during the work or school day.
- Travel time from the child care provider to and from the activity. *Id.*

For travel time, MDHHS is to add 10 hours per biweekly pay period for each need reason. *Id.* P/SPs requiring more than 10 hours of travel time per pay period, per need reason, must provide documentation supporting the need. *Id.* The local office can approve the additional hours, if reasonable. *Id.* MDHHS is to round the need hours up to the nearest biweekly hour amount of 20, 40, 60, 80, or 90 hours. *Id.*

MDHHS testified it calculated Petitioner's 60 biweekly hours of CDC need by counting 40 work hours, adding 10 for travel time, and rounding up to the nearest biweekly hour amount. MDHHS's testimony admitted it did not consider whether Petitioner required more travel time under its mistaken belief that clients are never entitled to more than 10 hours of travel time. As stated above, clients can provide documentation to verify a need for more than 10 hours of travel time which MDHHS offices may approve. The evidence supported that MDHHS failed to allow Petitioner to verify a need for more than 10 hours of travel time. As a remedy, MDHHS will be ordered to request documentation of Petitioner's travel time needs for a reconsideration of Petitioner's CDC hours beginning August 12, 2023.

¹ Petitioner testified he timely returned to MDHHS employment information on July 11 or July 12, 2023.

² The approval of CDC appeared to be tied to Petitioner reapplying for CDC benefits on [REDACTED] 2023. Exhibit A, pp. 22-31.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly terminated Petitioner's CDC. MDHHS additionally failed to request verification of Petitioner's need for additional CDC hours. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reprocess Petitioner's FAP eligibility for the benefit period certified through August 12, 2023 subject to the finding that MDHHS improperly terminated Petitioner's eligibility beginning July 16, 2023;
- (2) Reprocess Petitioner's CDC eligibility beginning August 13, 2023, subject to the finding that MDHHS failed to request verification of Petitioner's need for travel time of more than 10 hours.; and
- (3) Issue notice and supplements, if any, in accordance with policy.

The actions taken by MDHHS are **REVERSED**.

CG/nr



Christian Gardocki

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

Keisha Koger-Roper
Wayne-District 31 (Grandmont)
17455 Grand River
Detroit, MI 48227

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

Interested Parties

Wayne 31 County DHHS
BSC4
L. Brewer-Walraven
MOAHR

Via-First Class Mail :

Petitioner

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