



GRETCHEN WHITMER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ORLENE HAWKS
DIRECTOR

[REDACTED]
MI [REDACTED]

Date Mailed: November 22, 2022
MOAHR Docket No.: 22-004747
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Amanda M. T. Marler

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 November 21, 2022. The Petitioner was self-represented. The Department of Health and Human Services (Department) was represented by Harley Hill, Eligibility Specialist.

ISSUE

Did the Department properly deny Petitioner's application for Child Development and Care (CDC) benefits?

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 is a full-time teacher in [REDACTED] and has an annual salary of \$[REDACTED] before receiving extra earnings for overtime worked.
2. On [REDACTED] 2022, Petitioner submitted an application for CDC benefits for her two infant children.
3. Petitioner submitted two paystubs from August 19, 2022 and September 2, 2022 showing gross wages of \$[REDACTED] and \$[REDACTED] respectively which included overtime wages.
4. On September 28, 2022, the Department issued a Notice of Case Action to Petitioner informing her that her application for CDC benefits had been denied due to excess income over the income limit at application.

5. On October 11, 2022, the Department received Petitioner's request for hearing disputing the Department's denial of her CDC application.

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 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 disputes the Department's denial of her CDC application for being over the income limit. The goal of the CDC program is to support low-income families by providing access to high-quality, affordable, and accessible early learning and development opportunities and to assist the family in achieving economic independence and self-sufficiency. BEM 703 (April 2022), p. 1. The program provides a subsidy for childcare services for qualifying families. *Id.* All groups must be income eligible unless the group is in children's protective services, foster care, has a Family Independence Program (FIP)-related case, are migrant farmworkers, or is homeless. BEM 703, p. 13-16. Eligibility based upon income considers group size and countable gross monthly income received by any member of the group. BEM 703, p. 16. In order to enter the CDC program, the family's gross monthly income cannot exceed the program entry limit (the \$15.00 Family Contribution Category found in RFT 270). *Id.* Petitioner's CDC group includes herself and her two children as policy requires each child for whom care is requested and the child's legal and/or biological parent to be part of the group if everyone is living together. BEM 205 (October 2017), p. 1. The program entry limit for a family size of three is \$3,838.00. RFT 270 (July 2022), p. 1.

Petitioner has employment income. CDC income budgeting requires consideration of the gross countable monthly income to determine eligibility. BEM 525 (November 2021), p. 1. A group's financial eligibility and monthly benefit amount are determined using actual income and prospected income (not received but expected). BEM 505 (November 2021), p. 1. For non-child support income, the Department uses income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month. BEM 505, p. 6. The Department then must determine a standard monthly amount. BEM 505, pp. 8-9. For wages received on a weekly basis, the average of the income is multiplied by 4.3. *Id.* For wages received bi-weekly, the average is multiplied by 2.15. *Id.* Finally, for wages received twice per month, the

amounts are added together. *Id.* In situations where a client has irregular income, the Department is required to consider the income from the past 60 or 90 days if the past 30 days is not a good indicator and the fluctuations appear to accurately reflect expected income in the benefit month. BEM 505, p. 6.

Petitioner receives a regular bi-weekly paycheck. Although Petitioner testified that she had overtime wages included in her paychecks, neither check appears to delineate overtime hours despite their being separate rates listed. In any case, her income from the two checks was \$ [REDACTED] and \$ [REDACTED]. When averaged, her gross income is \$ [REDACTED] and multiplied by 2.15 is \$ [REDACTED] per month. When her annual income listed during her interview of \$ [REDACTED] is averaged, her gross monthly income is \$ [REDACTED]. In both circumstances, Petitioner's gross monthly income is significantly greater than the application income limit. Therefore, the Department properly denied her application for being over the application income limit.

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 denied Petitioner's application for CDC benefits.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.

AMTM/cc



Amanda M. T. Marler
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 :

Interested Parties

MDHHS-Oakland-DistrictII-Hearings
BSC4-HearingDecisions
L. Brewer-Walraven
MOAHR

Via-First Class Mail :

Petitioner

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