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GOVERNOR

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

ORLENE HAWKS
DIRECTOR

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Date Mailed: February 14, 2023
MOAHR Docket No.: 23-000029
Agency No.: ██████████
Petitioner: ██████████

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 February 9, 2023. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Shelli Reese, specialist.

ISSUE

The issue is whether MDHHS properly denied 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. On ██████████ 2022, Petitioner applied for CDC benefits and reported recently started employment income and a household with a minor child.
2. On an unspecified date, Petitioner submitted to MDHHS documents verifying the following gross weekly employment income from December 2022: \$██████ on December 9, \$██████ on December 16, and \$██████ on December 23.
3. As of December 2022, Petitioner's child received at least \$██████ in gross monthly Retirement, Survivors, Disability Insurance (RSDI).
4. As of December 2022, neither Petitioner nor her child were homeless, migrant farmworkers, or Family Independence Program (FIP) benefit recipients.

Additionally, neither Petitioner nor her child were involved with Children's Protective Services (CPS) or foster care.

5. On December 22, 2022, MDHHS denied Petitioner's application for CDC due to excess gross income.
6. On January 3, 2023, Petitioner requested a hearing to dispute the denial of CDC benefits.

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 to dispute a denial of CDC benefits. Exhibit A, pp. 3-4. Petitioner applied for CDC benefits on [REDACTED] 2022. A Notice of Case Action dated December 22, 2022, stated that Petitioner's CDC application was denied due to gross income exceeding the CDC entry level.¹ Exhibit A, pp. 26-30.

There are five types of CDC eligibility groups for which an income determination is waived: those involved with Children's Protective Services, foster care, Family Independence Program recipients, migrant farmworkers, and homelessness. BEM 703 (April 2022) pp. 13-14. If a client's CDC group is not eligible for an income waiver, then the group may be eligible for CDC benefits, subject to a determination of income. *Id.*, p. 16. There was no evidence that Petitioner's group qualified for CDC based on a waiver of income-eligibility. Thus, Petitioner is left to qualify for CDC benefits based on an income determination.

To be eligible for the CDC program at application, a program group's countable gross monthly income must not exceed the maximum monthly gross income limit by family size associated with the program entry limit. *Id.* Income eligible families may have a co-payment amount called a family contribution. *Id.*

¹ The notice also stated that Petitioner was denied CDC due to not having a valid need reason. MDHHS presented no evidence justifying denial of Petitioner's application for a lack of need reason.

For CDC benefits, MDHHS generally counts gross wages.² BEM 501 (July 2022) p. 7. For non-child support income, MDHHS uses past income to project a CDC group's income. BEM 505 (November 2021) p. 5. Stable or fluctuating weekly employment income is converted to a monthly amount by multiplying the average income by 4.3. *Id.*, p. 8.

MDHHS determined Petitioner's employment income from weekly pay documents submitted by Petitioner. The documents listed the following gross weekly income for Petitioner from December 2022: \$[REDACTED] on December 9, \$[REDACTED] on December 16, and \$[REDACTED] on December 23.³ Multiplying the average wage by 4.3 results in countable employment income of \$[REDACTED] (dropping cents). A CDC budget verified that MDHHS only calculated \$[REDACTED] in employment income for Petitioner. Exhibit A, p. 24. Because MDHHS calculated a lower and more favorable amount for Petitioner, it will be accepted that MDHHS correctly calculated Petitioner's monthly employment income as \$[REDACTED].

It was not disputed that Petitioner's child received \$[REDACTED] in RSDI in December 2022.⁴ For all programs, gross RSDI is countable. BEM 503 (April 2019) p. 29. Adding Petitioner's child's RSDI to Petitioner's employment income results in a total monthly income of \$[REDACTED]. MDHHS budgeted the same amount for Petitioner's income in determining CDC eligibility. Exhibit A, p. 24.

It was not disputed that Petitioner's CDC group size was two.⁵ For a group size of two, the income level for entry into the CDC program is \$3,052. RFT 270 (July 2022) p. 1.

The evidence established that Petitioner's benefit group's income exceeded the income limit for entry level into the CDC program. Thus, MDHHS properly denied Petitioner's application for CDC benefits.

DECISION AND ORDER

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly denied Petitioner's application requesting CDC benefits dated [REDACTED] 2022.

² Exceptions to using gross wages include the following: earned income tax credits, flexible benefits, striker earnings, student disregards, and census worker earnings. BEM 501 (July 2017), p. 7. None of these exceptions apply to the present case.

³ Petitioner testified that her workdays were cut to three per week after Christmas. Petitioner's testimony implied a reduction in income. The reduction in income is relevant if Petitioner reapplies; however, it is not relevant to the application denial which occurred before Christmas.

⁴ Petitioner's child's RSDI was \$[REDACTED] beginning January 2023.

⁵ See BEM 205 for determining CDC group composition.

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

CG/mp



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
MDHHS-Macomb-20-Hearings
L. Brewer-Walraven
MOAHR
BSC4

Via-First Class Mail :

Petitioner

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