



GRETCHEN WHITMER
GOVERNOR

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

ORLENE HAWKS
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: July 7, 2023
MOAHR Docket No.: 23-002295
Agency No.: [REDACTED]
Petitioner: [REDACTED] [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 July 3, 2023. Petitioner appeared and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Kenitah Brown, specialist.

ISSUES

The first issue is whether MDHHS properly terminated Petitioner's Family Independence Program (FIP) eligibility.

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

FINDINGS OF FACT

The administrative law judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. As of February 2023, Petitioner was a guardian to two minor children, [REDACTED] and [REDACTED] (hereinafter, "Children").
2. As of February 2023, Petitioner was an ongoing recipient of FIP benefits as the ineligible grantee to Children. Petitioner's FIP eligibility period was certified through March 2023.
3. As of February 2023, Petitioner was an ongoing recipient of CDC benefits to Children, as well as two biological children.
4. On February [REDACTED] 2023, MDHHS mailed Petitioner a Redetermination form concerning renewal of FIP benefits.

5. On February [REDACTED] 2023, Petitioner submitted to MDHHS verification of employment.
6. On March 20, 2023, MDHHS terminated Petitioner's FIP eligibility beginning April 2023 due to a failure to return a Redetermination form.
7. On March 28, 2023, MDHHS received Petitioner's completed Redetermination form.
8. On April 3, 2023, MDHHS mailed Petitioner a notice of a telephone interview appointment for April 11, 2023 at 1:30 p.m.
9. On April 11, 2023, Petitioner called MDHHS after 1:30 regarding not being called for interview. MDHHS did not return Petitioner's call.
10. On April 11, 2023, MDHHS terminated Petitioner's CDC eligibility beginning May 2, 2023, due to Petitioner not having a need and excess gross income.
11. As of April 24, 2023, MDHHS did not redetermine Petitioner's FIP eligibility.
12. On April 24, 2023, Petitioner requested a hearing to dispute the terminations of FIP and CDC benefits.

CONCLUSIONS OF LAW

The Family Independence Program 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. MDHHS 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. MDHHS 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 FIP benefits. Exhibit A, pp. 4-5. A Notice of Case Action dated March 20, 2023, stated that Petitioner's FIP eligibility would end April 2023 due to a failure to return a Redetermination form.¹ Exhibit A, pp. 27-31. MDHHS acknowledged that Petitioner submitted a Redetermination form on March 28, 2023 and that the submission was timely enough to potentially allow for a redetermination of FIP benefits.² Exhibit A, pp. 7-12. MDHHS contended that Petitioner's FIP eligibility properly ended after Petitioner failed to participate in a redetermination interview. For FIP, specialists must conduct a telephone interview with the head of household at redetermination before certifying continued eligibility. BAM 210 (October 2022) p. 5.

¹ Other stated reasons for closure were that Children were neither eligible group members nor eligible children. During the hearing, MDHHS did not allege that either of these reasons justified case closure.

² Petitioner testified she faxed the Redetermination form to MDHHS in February 2023 and submitted the document again in early March 2023. For purposes of this decision, the undisputed submission date of March 28, 2023 will be accepted as the first date of submission

MDHHS documented that it called Petitioner on March 30, 2023, and April 3, 2023, for a redetermination interview but the calls went straight to voicemail. Exhibit A, p. 17. MDHHS then sent Petitioner an Appointment Notice scheduling Petitioner for an appointment on April 11, 2023, at 1:30 p.m. Exhibit A, p. 13. MDHHS documented that it called Petitioner at the scheduled appointment time and the call went straight to voicemail. Exhibit A, p. 17. MDHHS contended Petitioner's FIP eligibility properly ended after multiple unsuccessful efforts to interview Petitioner.

Petitioner responded that she expected a call from MDHHS on April 11, 2023 at 1:30 p.m., but did not receive a call. Petitioner also testified she called the tollfree number of MDHHS after the scheduled interview on April 11, 2023, and was told that a message would be forwarded to her specialist. Petitioner further testified that she never received a follow-up.

MDHHS presented credible documentation of efforts to contact Petitioner. However, Petitioner presented credible testimony that she also made efforts to comply with the interview requirement. MDHHS provided no explanation as to why it did not interview Petitioner when she called the tollfree number or why Petitioner was not contacted after the scheduled interview time. Petitioner's efforts do not satisfy the interview requirements but do negate FIP closure based on a failure to be interviewed. Given the evidence, MDHHS improperly terminated Petitioner's FIP eligibility. As a remedy, Petitioner is entitled to further efforts by MDHHS to interview Petitioner.

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 BAM, BEM, and RFT.

Petitioner also requested a hearing to dispute a termination of CDC benefits. Exhibit A, pp. 4-5. Petitioner testified she previously received CDC benefits for Children and two biological children. Petitioner acknowledged that she has excess income to receive CDC benefits for her biological children; however, Petitioner disputes the termination of CDC benefits for Children. A Notice of Case Action dated April [REDACTED] 2023, stated that Children were not eligible for CDC effective May 2, 2023, due to Petitioner not having a need. Exhibit A, pp. 32-36

At application or redetermination, each parent/substitute parent (P/SP) must demonstrate a valid need reason. BEM 703 (January 2023) p. 4. There are four valid CDC need reasons. *Id.* Each need reason must be verified. *Id.* The need reasons are family preservation, high school completion, an approved activity, or employment. *Id.*

MDHHS presented a Verification of Employment from Petitioner dated February 28, 2023. Exhibit A, pp. 14-16. MDHHS acknowledged that the documentation verified Petitioner's ongoing full-time employment. Petitioner's employment is a valid need reason for CDC benefits. Given the evidence, MDHHS improperly terminated Petitioner's CDC eligibility due to lacking a need reason.

The Notice of Case Action dated April [REDACTED] 2023, additionally stated that Children were not eligible for CDC due to excess gross income. Exhibit A, pp. 32-36. MDHHS presented Petitioner's wage history and a CDC budget supporting the termination of CDC benefits based on excess income.³ Exhibit B, pp. 1-4 and Exhibit C, p. 1. As indicated above, Petitioner acknowledged having excess income to continue CDC benefits for her biological children. However, CDC eligibility for Children could be based on non-income reasons.

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 (January 2023) pp. 13-16. 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.

In the above analysis, it was found that MDHHS improperly terminated Petitioner's FIP eligibility for Children. Under the circumstances, Children are potentially eligible to receive FIP. Children's potential eligibility for FIP would be a basis for Children to be CDC eligible without an income determination.⁴ In other words, the improper termination of FIP benefits infected the termination of CDC eligibility for Children. Under the circumstances, Petitioner is entitled to a reprocessing of CDC eligibility for Children following the reprocessing of Children's FIP eligibility.

³ The evidence suggested that MDHHS projected Petitioner's income from her February 2023 wages.

⁴ Presumably, MDHHS performed no such analysis because Children were not found eligible to receive FIP benefits.

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 FIP eligibility beginning April 2023. It is also found that MDHHS improperly terminated Children's CDC eligibility beginning May 2, 2023. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reprocess Petitioner's FIP eligibility beginning April 2023, subject to the finding that Petitioner submitted a Redetermination form on March 28, 2023, and did not fail to be interviewed;
- (2) Reprocess CDC eligibility for Children beginning May 2, 2023, subject to the finding that Petitioner had a valid need reason for CDC and that Children are potentially eligible to receive CDC as FIP recipients; and
- (3) Issue notice and supplements, if any, in accordance with policy.

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

CG/dm



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

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

SanbornB

MOAHR

BSC4HearingDecisions

Via-First Class Mail :

Petitioner

[REDACTED]
[REDACTED]
[REDACTED]