



GRETCHEN WHITMER  
GOVERNOR

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

MARLON BROWN  
DIRECTOR

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Date Mailed: May 30, 2024  
MOAHR Docket No.: 24-003232  
Agency No.: [REDACTED]  
Petitioner: [REDACTED]

**ADMINISTRATIVE LAW JUDGE: Alice C. Elkin**

### **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 May 2, 2024. Petitioner was present and self-represented. The Department of Health and Human Services (Department) was represented by Rhonda Barley, Eligibility Specialist. The hearing was conducted by ALJ Amanda Marler. Because ALJ Marler is unavailable, pursuant to Mich Admin Code, R 792.10106(7), the undersigned has reviewed the record and issued this Hearing Decision.

At the hearing, the Department's hearing packet, pages 1 through 22, was admitted into evidence as Exhibit A.

### **ISSUE**

Did the Department properly deny payment to Petitioner's provider of Child Development and Care (CDC) benefits from February 24, 2024 through March 22, 2024?

### **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 recipient of CDC benefits for her two minor children.
2. On February 22, 2024, the Department sent Petitioner a Verification Checklist (VCL) requesting verification of CDC need, her checking account, and 401(k) by March 4, 2024 to determine her ongoing eligibility for CDC benefits. (Exhibit A, pp. 20-21)
3. On March 15, 2024, the Department sent Petitioner (i) a Notice of Case Action notifying her that she was approved for CDC for both children for August 27, 2023

to February 10, 2024, but her CDC case closed for both children for April 7, 2024 ongoing because her income exceeded the limit for CDC eligibility and (ii) a CDC Client Notice notifying her that her CDC provider was approved to care for her two minor children through February 24, 2024. (Exhibit A, pp. 15-18)

4. On March 25, 2024, the Department received Petitioner's hearing request in which Petitioner stated that she did not dispute the Department's finding that she was no longer income eligible for CDC but argued that the Department should be responsible for paying her CDC provider for services she provided to Petitioner's children between February 24, 2024 and March 22, 2024, when she received the Notice of Case Action closing her CDC case.

### **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.

Petitioner did not dispute the closure of her CDC case due to excess income, but she did dispute the Department's failure to pay her day care provider for CDC services provided to Petitioner's two minor children from February 24, 2024 through March 22, 2024, the day she received the March 15, 2024 Notice of Case Action notifying her that her CDC case was closing.

Although the Department testified that it determined that Petitioner had excess income for continued CDC eligibility in connection with processing a redetermination, it also testified that Petitioner had submitted a new application on [REDACTED] 2024 that reported her significant other living in the household and his income. The printout of CDC income eligibility from the Department's database indicated that Petitioner's CDC case had a January 31, 2025 review due date but eligibility was being determined for the benefit period of April 7, 2024 ongoing. This evidence, plus testimony that Petitioner's significant other had moved into the household, indicated that Petitioner's household's income was being evaluated in connection with the increased household size and income due to Petitioner's significant other's presence in the household.

Department policy provides that CDC clients are required to report within 10 calendar days changes in group composition and when income exceeds the income eligibility scale for the family size. BAM 220 (November 2023), p. 2. The Department must act on reported changes in CDC cases as soon as possible but within the standard of promptness, with the policy recognizing that the day a reported change is acted on is not always the day the change must take effect. BAM 220, p. 9. The effective date of a negative action is tied to the date that a change *should have been* reported. BAM 220, p. 9. For example, if a client who had prior pay periods certified for CDC failed to timely report an increase in income that exceeded the CDC income eligibility scale for family size, the client is denied CDC for excess income on the pay period after the change occurred and the Department generates zero approved hours or an over-payment. BAM 220, p. 9. If adequate or no notice is required, the negative action date is immediate (the day action is taken on the change), but not before the change is expected to occur. BAM 220, p. 10. On the other hand, if a CDC case is to close and timely notice is required, the negative action date must be the first workday at least 11 days after the notice of case closure is sent, or the date the change is expected to occur if that is later. BAM 220, p. 10.

Here, the Department testified about Petitioner's responsibility to timely report changes in her household's group composition and income, but failed to show that Petitioner did not report these changes timely. Since the Department failed to show when Petitioner reported changes in her household composition or income or that changes were not timely reported, Petitioner was entitled to timely notice of her CDC case closure. Therefore, Petitioner's CDC case could not close less than 12 days from the date the Notice of Case Action notifying her of the CDC closure was sent. Because the Notice of Case Action in this case was sent on March 15, 2024, the CDC case could not have closed prior to March 27, 2024. Thus, Petitioner was entitled to CDC payments to her provider for the requested period of February 24, 2024 through March 22, 2024.

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 failed to satisfy its burden of showing that it acted in accordance with Department policy when it closed Petitioner's CDC case without giving her timely notice of the closure.

### **DECISION AND ORDER**

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

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. Reinstate Petitioner's CDC case from the date of closure;
2. Allow Petitioner's CDC provider to bill for services provided to Petitioner's eligible children from February 24, 2024 through March 22, 2024; and

3. Pay Petitioner's CDC provider for services provided from February 24, 2024 through March 22, 2024.

ACE/cc



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**Alice C. Elkin**  
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-Wayne-15-Greydale-Hearings  
BSC4-HearingDecisions  
L. Brewer-Walraven  
MOAHR

**Via-First Class Mail :**

**Petitioner**

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