



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  
DIRECTOR

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

Date Mailed: September 5, 2024  
MOAHR Docket No.: 24-008004  
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 August 28, 2024. Petitioner participated and was unrepresented. The Michigan Department of Health and Human Services (MDHHS) was represented by Ryane McArthur, specialist.

**ISSUES**

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

The second issue is whether MDHHS properly denied Petitioner's application for 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. As of April 2024, Petitioner received ongoing CDC benefits for her child, [REDACTED] [REDACTED] (hereinafter, "Child").
2. As of April 2024, Petitioner failed to return to MDHHS redetermination documents for continuing CDC benefits.

3. On April 19, 2024, MDHHS sent Petitioner notice of CDC closure due to Petitioner's failure to return CDC redetermination documents.
4. On [REDACTED] [REDACTED] 2024, Petitioner applied for CDC benefits and reported receiving ongoing wages.
5. On an unspecified date, Petitioner submitted to MDHHS documents verifying an hourly wage of \$ [REDACTED] and the following gross weekly wages beginning June 13, 2024: \$ [REDACTED] \$ [REDACTED] \$ [REDACTED] and \$ [REDACTED]
6. As of July 2024, Petitioner received \$ [REDACTED] in monthly support for Child.
7. As of July 2024, 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.
8. On July 9, 2024, MDHHS denied Petitioner's application for CDC due to excess gross income.
9. On July 11, 2024, Petitioner requested a hearing to dispute the termination and subsequent 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, in part, to dispute a termination of CDC benefits.<sup>1</sup> Exhibit A, pp. 3-4. MDHHS testified it sent notice of CDC termination on April 19, 2024, which stated that Petitioner failed to return CDC redetermination documents.

For all programs, MDHHS must periodically redetermine or renew an individual's eligibility for active programs. BAM 210 (January 2024) p. 1. The process includes a

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<sup>1</sup> Petitioner's dispute over CDC termination was not obvious. Petitioner check marked that a dispute over CDC closure was desired but made no mention of it in the hearing request narrative. Further, Petitioner submitted a notice of CDC application denial with the hearing request; the notice of CDC benefit termination was not submitted.

thorough review of all eligibility factors.<sup>2</sup> *Id.* For all programs, MDHHS mails a redetermination packet to the client three days prior to the negative action cut-off date in the month before the redetermination is due. *Id.*, p. 8. A Redetermination form is considered complete when all sections are completed. *Id.* p. 11.

When redetermination packets are not logged by the 10th day of the redetermination month, the DHS-5322, Notice of Potential Child Development and Care (CDC) Closure, will be generated to the client. *Id.*, p. 14. This notice informs the client that CDC benefits will end the pay period that holds the last day of the month. *Id.* If the redetermination packet is not logged in by the negative action cut-off date of the redetermination month, a Notice of Case Action is generated, and the program is closed. *Id.*

Petitioner did not dispute receiving an electronic CDC benefit Redetermination form from MDHHS. Petitioner also did not dispute failing to return the Redetermination form. Petitioner testified the cause of her failure was not being able to log into the MDHHS app due to password difficulties. Petitioner also testified that she eventually called technical support to resolve the problem; however, it was too late to return the redetermination documents. Petitioner's inability to log into the MDHHS app does not excuse a failure to return redetermination documents.

Even if Petitioner was unable to electronically return redetermination documents to MDHHS, Petitioner could have still returned the paper redetermination documents. Petitioner testified that she did not receive paper documents because MDHHS mailed them to a previous address. Petitioner also testified that she reported a change in address through the MDHHS app before the documents were mailed; thus, Petitioner blamed MDHHS for not mailing redetermination documents to the proper address. MDHHS responded that it had no record of Petitioner reporting a change in address before redetermination documents were mailed.

Generally, a client's testimony is more persuasive when it is included in the hearing request. Petitioner's testimony was not included within the hearing request. Petitioner's testimony was also not otherwise corroborated.

Given the evidence, MDHHS properly mailed Petitioner's CDC redetermination documents to Petitioner's most recently reported address. The evidence further established that Petitioner failed to timely return CDC redetermination documents. Accordingly, MDHHS properly terminated Petitioner's CDC eligibility.

Petitioner also requested a hearing to dispute a later denial of CDC benefits. Exhibit A, pp. 3-4. Petitioner applied for CDC benefits on [REDACTED] [REDACTED] 2024. Exhibit A, pp. 22-27. A Notice of Case Action dated July 9, 2024, stated that Petitioner's CDC application was denied due to gross income exceeding the CDC entry level. Exhibit A, pp. 10-13

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<sup>2</sup> For Medicaid, an annual review of all eligibility programs is also referred to as a "renewal". BAM 210 (October 2022) p. 1.

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 (October 2023) 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.*

For CDC benefits, MDHHS generally counts gross wages.<sup>3</sup> BEM 501 (January 2024) p. 7. For non-child support income, MDHHS uses past income to project a CDC group's income. BEM 505 (October 2023) 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 testified it determined Petitioner's countable employment income from weekly pay documents submitted by Petitioner. The pay documents listed the following gross wages for Petitioner beginning June 13, 2024: \$█████ \$█████ \$█████ and \$█████ Exhibit A, pp. 14-19. MDHHS testified it excluded Petitioner's gross payments of \$1,025 and \$980 based on Petitioner's statements during an interview dated June 28, 2024 that the payments included unrepresentative overtime income.<sup>5</sup> Left with the payments of \$650 and \$794, MDHHS should have calculated a weekly gross average of \$█████ and multiplied this amount by 4.3 resulting in a gross monthly income of \$█████

MDHHS testified it calculated a monthly earned income of \$█████ MDHHS provided no explanation for how it calculated Petitioner's monthly wages tother than reliance on the wage payments of \$650 and \$794.

It was not disputed that Petitioner received monthly child support income of \$131. Adding the child support to Petitioner's wages results in a total monthly income of \$3,235. It was not disputed that Petitioner's CDC group size was two.<sup>6</sup> For a group size of two, the income level for entry into the CDC program is \$3,286. RFT 270 (January 2024) p. 1. Petitioner's income is below the income limit. Thus, MDHHS improperly

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<sup>3</sup> 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.

<sup>4</sup> The pay stub dated July 4, 2024 for \$█████ was not among the presented documents.

<sup>5</sup> Petitioner contended the payment of \$794 should not have been factored in determining her income because it also included unrepresentative overtime. Though the pay document was not presented, it is presumed the payment did not include overtime. Multiplying Petitioner's hourly wage of \$20 by 40 results in a potential gross pay of \$800. Assuming that overtime is only paid for more than 40 hours of employment, Petitioner's gross payment of less than \$800 should not include overtime.

<sup>6</sup> See BEM 205 for determining CDC group composition.

denied Petitioner's CDC application. As a remedy, Petitioner is entitled to a reprocessing of the application.

### **DECISION AND ORDER**

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS properly terminated Petitioner's CDC eligibility stemming from a Notice of Case Action dated April 19, 2024. Concerning CDC benefit termination, the actions taken by MDHHS are **AFFIRMED**.

The administrative law judge, based upon the above findings of fact and conclusions of law, finds that MDHHS improperly denied Petitioner's CDC application. It is ordered that MDHHS commence the following actions within 10 days of the date of mailing of this decision:

- (1) Reinstate Petitioner's CDC application dated [REDACTED] 2024;
- (2) Reprocess Petitioner's application subject to the finding that MDHHS improperly failed to establish it properly calculated Petitioner's gross income; and
- (3) Issue benefit supplements and notice, 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**

Denise Key-McCoggle  
Wayne-Greydale-DHHS  
27260 Plymouth Rd  
Redford, MI 48239

**MDHHS-Wayne-15-Greydale-Hearings@michigan.gov**

**Interested Parties**

BSC4  
L. Brewer-Walraven  
MOAHR

**Via-First Class Mail :**

**Petitioner**

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