



GRETCHEN WHITMER
GOVERNOR

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

MARLON BROWN
DIRECTOR

[REDACTED]
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Date Mailed: December 18, 2024
MOAHR Docket No.: 24-012792
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Zainab A. Baydoun

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 December 16, 2024, from Detroit, Michigan. Petitioner appeared for the hearing and represented herself. The Department of Health and Human Services (Department) was represented by Kendra Finch, Assistance Payments Worker.

ISSUE

Did the Department properly process Petitioner's Child Development and Care (CDC) benefits and calculate the amount of her Food Assistance Program (FAP) 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 was an ongoing recipient of CDC and FAP benefits. Petitioner was previously approved for monthly FAP benefits in the amount of \$973.
2. In connection with a redetermination received by the Department on November 8, 2024, Petitioner's eligibility for CDC and FAP benefits was reviewed. (Exhibit A, pp. 8-16)
3. On an unverified date, Petitioner's FAP case was closed due to excess income.
4. On or around November 15, 2024, Petitioner requested a hearing disputing the denial of FAP benefits. Petitioner requested that she continue to receive the amount of food benefits that she now receives until after her hearing. Petitioner also indicated that she disputed the amount of CDC benefits, asserting that her CDC provider has not received any payments. (Exhibit A, pp. 3-5)

5. After receiving Petitioner's request for hearing, the Department reinstated her FAP case and recalculated her FAP budget.
6. The Department processed Petitioner's CDC redetermination and approved her two children for ongoing CDC benefits.
7. On or around November 22, 2024, the Department sent Petitioner a Child Development and Care Client Notice (Client Notice) advising Petitioner that her two children were approved for CDC benefits for 80 authorized hours from June 30, 2024, through October 19, 2024, and 90 authorized hours for the period from October 20, 2024, through December 13, 2025. The approved CDC provider identified was Kment Elementary. (Exhibit A, pp. 17-18)
8. On or around November 25, 2024, the Department sent Petitioner a Notice of Case Action advising that for November 2024, she was approved for \$78 in FAP benefits. (Exhibit A, pp. 31-33).

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).

CDC

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's hearing request indicates that despite being informed that she was approved for CDC benefits, her CDC provider has not received any payments from the Department. (Exhibit A, pp. 3-5)

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 (October 2024), p.1. CDC payments are made when all of the following are true: all eligibility requirements are met, a CDC case is open in Bridges, an eligible provider is assigned to the child and provides care, the provider successfully bills for child care, and payment limits have not been reached. CDC providers are paid for costs associated with child care by submitting billing through the Internet billing (I-Billing) system. Providers must bill the department every two weeks for allowable child care reimbursement. Each

bill covers a two-week pay period. The amount of payment generated is based on the child, the provider and the provider's billing. The child and provider/billing factors that impact payment are outlined in BEM 706, at pp. 1-2. BEM 706 (October 2024), pp. 1-2.

At the hearing, the Department representative testified that prior to the redetermination and after the redetermination was processed, Petitioner was approved for CDC benefits for two children (initials CR and SR) for 80 authorized hours from June 30, 2024, through October 19, 2024, and 90 authorized hours for the period from October 20, 2024, through December 13, 2025. The approved CDC provider identified was Kment Elementary. The November 22, 2024, CDC Client Notice was presented in support of the Department's testimony. (Exhibit A, pp. 17-18).

Petitioner testified that on or around October 18, 2024, she received a letter from the CDC provider indicating that her children were not approved for CDC benefits and informing her that she had a balance of over \$1,200 that she was required to pay. Petitioner testified that since that time, and after requesting a hearing, her CDC provider has been able to bill and received some payment but only received half. During the hearing, the Department representative reviewed Petitioner's case in Bridges and identified CDC payments issued to Petitioner's CDC provider in November 2024, and December 2024. Petitioner did not identify the period in which her CDC provider did not receive payment and did not present any supporting evidence that her CDC provider received only partial payments.

Because the evidence established that Petitioner's two children were approved for CDC benefits and that the CDC provider was able to bill and receive payment for care provided, Petitioner failed to establish that there was a negative action taken with respect to her CDC case. 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 processed Petitioner's CDC benefits.

FAP

The Food Assistance Program (FAP) [formerly known as the Food Stamp program] is established by the Food and Nutrition Act of 2008, as amended, 7 USC 2011 to 2036a and is implemented by the federal regulations contained in 7 CFR 273. The Department (formerly known as the Department of Human Services) administers FAP pursuant to MCL 400.10, the Social Welfare Act, MCL 400.1-.119b, and Mich Admin Code, R 400.3001-.3011.

In this case, Petitioner was an ongoing recipient of FAP benefits in the amount of \$973 and in connection with a redetermination, her eligibility to continue receiving FAP benefits was reviewed. The Department representative testified that Petitioner's FAP benefits were denied at redetermination due to excess income. However, after receiving Petitioner's request for hearing, it reviewed Petitioner's FAP case and after including her previously un-budgeted earned income, determined that she was eligible for \$78 for the month of November 2024 and \$81 in FAP benefits for December 2024, ongoing.

The Department presented a FAP EDG Net Income Results Budget for the month of December 2024 which was thoroughly reviewed to determine if the Department properly calculated the Petitioner's FAP benefits in the amount of \$81. (Exhibit A, pp. 27-30).

All countable earned and unearned income available to the client must be considered in determining a client's eligibility for program benefits and group composition policies specify whose income is countable. BEM 500 (April 2022), pp. 1 – 5. An employee's wages include salaries, tips, commissions, bonuses, severance pay, and flexible benefit funds not used to purchase insurance. The Department counts gross wages in the calculation of earned income. BEM 501 (January 2024), pp. 6-7. The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Prospective income is income not yet received but expected. BEM 505 (October 2023), pp. 1-2. In prospecting income, the Department is required to use income from the past 30 days if it appears to accurately reflect what is expected to be received in the benefit month, discarding any pay if it is unusual and does not reflect the normal, expected pay amounts. BEM 505, pp. 5-6. A standard monthly amount must be determined for each income source used in the budget. BEM 505, pp. 7-8. Income received biweekly is converted to a standard amount by multiplying the average of the biweekly pay amounts by the 2.15 multiplier. BEM 505, pp. 7-9.

The budget shows earned income of [REDACTED] which the Department testified consists of Petitioner's biweekly earnings from her employment with Premier Vascular Associates. Specifically, the Department identified gross pay of [REDACTED] received on November 8, 2024, and [REDACTED] received on October 25, 2024. Petitioner confirmed the income amounts and a Work Number was presented in support of the Department's testimony. When converted to a standard monthly amount, Petitioner has earned income of [REDACTED] and thus, the Department properly calculated the earned income.

The Department considers the gross amount of money earned from Supplemental Security Income (SSI) in the calculation of unearned income for purposes of FAP budgeting. BEM 503 (October 2024), p. 35. For an individual who lives in an independent living situation, State SSI Payments (SSP) are issued quarterly in the amount of [REDACTED] and the payments are issued in the final month of each quarter; see BEM 660. The Department will count the monthly SSP benefit amount [REDACTED] as unearned income. BEM 503, pp. 35-37; BEM 660 (October 2021), pp. 1-2; RFT 248 (January 2024), p. 1. Additionally, child support is money paid by an absent parent(s) for the living expenses of children and is considered unearned income. BEM 503, pp.6-10. The total amount of court-ordered direct support (which is support an individual receives directly from the absent parent or the Michigan State Disbursement Unit (MiSDU)) is counted as unearned income and is considered in the calculation of a client's gross unearned income. When prospectively budgeting unearned income from child support, the Department is to use the average of child support payments received in the past three calendar months, unless changes are expected, excluding any unusual amounts or those not expected to continue. BEM 505 (October 2023), pp. 3-5.

The Department concluded that Petitioner's household had unearned income in the total amount of [REDACTED] which the Department representative testified consisted of SSI benefits for Petitioner's child CR and child support on behalf of two children (CR and SR). The Department representative testified that Petitioner's child receives monthly SSI benefits in the amount of [REDACTED]. Petitioner confirmed the monthly SSI benefit but asserted that it should not be countable, as the funds are for her disabled child, and she is not authorized to use them for other household members. Petitioner did not present any Department policy in support of her argument that the SSI of her son is not countable as unearned income, as he is a mandatory group member. Additionally, although the Department failed to mention the SSP payment during the hearing, Petitioner's son would also be receiving the [REDACTED] SSP payment.

With respect to the child support calculation, during the hearing, the Department retrieved information from the consolidated inquiry/child support search, which showed that for Child CR, Petitioner received [REDACTED] in August 2024, [REDACTED] in September 2024, and [REDACTED] in October 2024. The Department representative testified that for Child SR, Petitioner received [REDACTED] in August 2024, [REDACTED] in September 2024, and [REDACTED] in October 2024. Thus, the three-month average of child support received on behalf of Child CR, is [REDACTED] and the three-month average of child support received on behalf of Child SR is [REDACTED] for a total of [REDACTED] and unearned income from child support. It is noted that the Department did not send the consolidated inquiry/child support search to the undersigned and thus, it is stricken from the record as Exhibit B.

Petitioner disputed that she receives child support in the amounts identified by the Department. Petitioner testified that she receives a total of [REDACTED] in monthly child support on behalf of her two children and that the amounts are disbursed biweekly in [REDACTED] increments. Petitioner did not present this documentary evidence prior to the hearing and was given the opportunity to submit the documentation in support of her testimony for consideration. Petitioner was instructed to file her Exhibit 1-child support payment verification with the undersigned. However, as of the writing of this Hearing Decision, Petitioner had not submitted any documentary evidence in support of her testimony and thus, Exhibit 1 is stricken from the record. Petitioner is advised that should she submit updated verification of her unearned income from child support to the Department, it would be considered in the calculation of future FAP eligibility.

Upon review, in consideration of the [REDACTED] in SSI, [REDACTED] SSP, and [REDACTED] in child support, the Department properly calculated Petitioner's unearned income in the amount of [REDACTED]

The deductions to income on the net income budget were also reviewed. Petitioner's FAP group includes a senior/disabled/veteran (SDV) member. BEM 550 (October 2024), pp. 1-2. Petitioner's FAP group is eligible for the following deductions to income:

- Dependent care expense.
- Excess shelter.
- Court ordered child support and arrearages paid to non-household members.
- Standard deduction based on group size.
- Medical expenses for the SDV member(s) that exceed \$35.
- An earned income deduction equal to 20% of any earned income.

BEM 554 (October 2024), p. 1; BEM 556 (October 2024), p. 1-8.

The Department properly applied an earned income deduction of \$560, which is 20% of [REDACTED] earned income calculation. The Department properly applied a standard deduction of \$217 which was based on Petitioner's confirmed group size of four. RFT 255 (October 2024), p. 1. There was no evidence presented that Petitioner had any child support expenses and therefore, the budget properly did not include any deduction for child support. See BEM 554. The Department representative testified that Petitioner did not present any medical expenses for her disabled child for consideration. Petitioner asserted that she has expenses for extracurricular activities that her son's therapist recommended he participate in. Petitioner argued that the expenses should be considered towards the medical deduction. Upon review of BEM 554, at pp.9-13, the expenses identified by Petitioner would not be allowable medical expenses and thus, are ineligible to be applied to the medical deduction. Therefore, the Department properly did not include a deduction for medical expenses.

The budget reflects a dependent care deduction of \$395. BEM 554 provides that the Department will allow an unreimbursed dependent care expense for a child under the age of 18 or an adult of any age who is incapacitated and a member of the FAP group, when such care is necessary to enable a member of the FAP group to work. This is the amount the FAP group actually pays out-of-pocket. The expense does not have to be paid to be allowed. Allow only the amount the provider expects the client to pay out-of-pocket. Work includes seeking, accepting or continuing employment, or training or education preparatory to employment. BEM 554, pp. 7-9. Additional criteria and acceptable verification sources are also outlined in BEM 554, at pp. 7-9.

The Department representative testified that in calculating the dependent care deduction of \$395, it considered information received from Petitioner, specifically, that she has \$197.80 in expenses on behalf of two children, CR and SR. Petitioner disputed the calculation of the dependent care deduction and testified that she also has expenses for a third child who participates in an afterschool program. Petitioner did not present any documentary evidence and did not provide any testimony regarding the amount of her dependent care expenses or when she submitted verification of the expenses to the Department. Therefore, based on the evidence available to the Department, the dependent care deduction was properly calculated.

The Department determined that Petitioner was eligible for an excess shelter deduction of \$416. In calculating the excess shelter deduction, the Department representative testified that it considered Petitioner's confirmed housing expenses of \$1,400 for monthly rent, the \$50 internet standard and properly applied the \$664 heat and utility standard, which covers all heat and utility costs including cooling expenses. BEM 554, pp. 13-17. A FAP group who is responsible to pay for an Internet service is eligible for the Internet standard, which is separate from any of the utility standards. BEM 554, p.26; RFT 255 (October 2024)

Petitioner argued that in addition to the heat and utility standard, the household is responsible for additional expenses for water, \$95 in telephone expenses, and \$90 in internet expenses. Petitioner asserted that the household should be entitled to the additional shelter deductions identified in RFT 255. Upon review however, FAP groups that qualify for the heat and utility standard do not receive any other individual utility standards and thus, the Department properly only applied the \$664 heat and utility deduction and the internet deduction.


After further review, the Department properly determined Petitioner's income and took into consideration the appropriate deductions to income. Based on net income of [REDACTED] Petitioner's four person FAP group is eligible for \$81 in monthly FAP benefits. RFT 260 (October 2024), p. 41. 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 calculated Petitioner's FAP benefits for December 1, 2024, ongoing.

Petitioner raised additional concerns regarding the Department's failure to continue her FAP benefits in the amount of \$973 pending the administrative hearing. However, pursuant to BAM 600 (June 2024), p. 25, the client is not entitled to benefits pending the hearing when the reason for the hearing request is a denial of benefits at FAP redetermination. Thus, because Petitioner's request for hearing was to dispute the denial of her continued FAP eligibility at the time of redetermination, she was not entitled to have her benefits continue at the previous approved amount of \$973.

DECISION AND ORDER

Accordingly, the Department's CDC and FAP decisions are **AFFIRMED**.

ZB/ml



Zainab A. Baydoun
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

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Interested Parties

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