

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 200726363
Issue No.: 6019
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: July 28, 2010
Muskegon County DHS

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the claimant's request for a hearing. After due notice, a telephone hearing was held on July 28, 2010. The claimant appeared and testified. On behalf of Department of Human Services (DHS), [REDACTED], Manager, and [REDACTED], Recoupment Specialist, appeared and testified.

ISSUE

Whether DHS properly sought recoupment of \$5502.15 in CDC benefits stemming from Claimant's request to continue CDC benefits pending an administrative hearing that found Claimant not entitled to the benefits.

FINDINGS OF FACT

The Administrative Law Judge, based upon the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Claimant was an ongoing CDC recipient.
2. On 5/12/06 DHS initiated termination of Claimant's CDC benefits due to excess income by Claimant.
3. On 5/19/06, requested an administrative hearing and indicated that she wanted to continue her CDC benefits pending the outcome of the hearing.
4. DHS continued issuing Claimant CDC benefits per Claimant's request.
5. On 3/7/07, an administrative decision (Exhibit 2) upheld the 5/12/06 DHS action of terminating Claimant's CDC benefits due to excess income.

6. Claimant received \$5502.15 in CDC benefits between 5/28/06 (the first CDC pay period after Claimant's CDC benefits would have closed had Claimant not requested continuing her CDC benefits) through 3/3/07 (the last CDC pay period Claimant received before DHS implemented the order from the administrative decision).
7. Claimant requested a hearing on 5/29/07 objecting to the benefit recoupment and seeking a waiver of recoupment based on financial hardship.

CONCLUSIONS OF LAW

The Child Development and Care program is established by Titles IVA, IVE and XX of the Social Security Act, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996. The program is implemented by Title 45 of the Code of Federal Regulations, Parts 98 and 99. The Department of Human Services (formerly known as the Family Independence Agency) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM). At the time of the actions involved in the present case, departmental policies were found in the Program Administrative Manual (PAM) and the Program Eligibility Manual (PEM)

DHS requests a "Debt Collection Hearing" when the grantee of an inactive program requests a hearing after the grantee receives the DHS-4358B, Agency and Client Error Information and Repayment Agreement. Active recipients are afforded their hearing rights automatically, but DHS must request hearings when the program is inactive. BAM 725 at 13. Claimant is no longer receiving CDC benefits.

When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the over-issuance (OI). PAM 700 at 1. An OI is the amount of benefits issued to the client group in excess of what they were eligible to receive. *Id.* Recoupment is a DHS action to identify and recover a benefit OI. *Id.*

A timely hearing request can delete a pending benefit reduction. *Id.* at 2. The client must repay the OI if the administrative hearing decision upholds the department's actions. *Id.* at 2.

In the present case, Claimant received CDC benefits and was determined to be over-income resulting in a notice of CDC benefit termination. Claimant requested an administrative hearing and stated that she wanted to continue receiving her CDC benefits through the hearing. The administrative decision upheld the DHS

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determination that Claimant was ineligible for CDC benefits due to excess income. DHS policy clearly allows recoupment of benefits in such circumstances.

DHS calculated the amount of recoupment to be \$5502.15. This was the amount of CDC benefits Claimant received but not for her hearing request and request to continue receiving benefits pending the outcome of the hearing. The undersigned verified that the recoupment amount was calculated correctly. It is found that DHS properly sought recoupment of \$5502.15 in CDC benefits from Claimant.

Claimant testified that she received the Agency and Client Error Information and Repayment Agreement (DHS-4358-B) which states, "In cases of extreme hardship, FIA may reduce any part of this debt." Claimant further testified that she is unable to repay the amount of recoupment and that she submitted a written request (Exhibit 5) of waiver of the recoupment amount based on financial hardship. DHS has not responded to Claimant's request.

DHS policy allows for a reduction or elimination of FAP benefit recoupment based on financial hardship. BAM 725 at 13. DHS policy does not appear to allow such a waiver for other program benefits. As such, the undersigned lacks jurisdiction to consider Claimant's request for a reduction or elimination of the recoupment amount.

DECISION AND ORDER

The actions taken by DHS are AFFIRMED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly sought recoupment of \$5502.15 in over-issued CDC benefits.

/s/



Christian Gardocki
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: August 23, 2010

Date Mailed: August 23, 2010

NOTICE: The law provides that within 30 days of receipt of the above Decision and Order, the respondent may appeal it to the circuit court for the county in which he/she lives.

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