

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],

Petitioner

Reg. No. 2007-18712
Issue No. 6004
Case No. [REDACTED]
Load No. [REDACTED]
Hearing Date:
November 19, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Rhonda P. Craig

RECOMMENDED HEARING DECISION

This matter is before the undersigned Administrative Law judge pursuant to MCL 400.9 and MCL 400.37 upon petitioner's request for a hearing. After due notice, an in-person hearing was held on November 19, 2009 and petitioner appeared and testified.

ISSUE

Is the Department of Human Services (DHS) entitled to recoup for Adoption Support Subsidies received during the period of September 1, 2006 through January 31, 2007?

FINDINGS OF FACT

- (1) Petitioner adopted her daughter (Date of Birth [REDACTED]) at the age of two years old.
- (2) On May 2, 1997, Petitioner signed an Adoption Support Subsidy Agreement for support of the child.
- (3) The child left the petitioner's home on [REDACTED] and did not return until [REDACTED].

- (4) During the period of September 1, 2006 and January 31, 2007, petitioner continued to receive Adoption Support Subsidy payments totaling \$4298.35
- (5) During the aforementioned period, petitioner contributed \$225.00 toward the care of her daughter.
- (6) The department is seeking recoupment of \$4,073.35 for the period of September 1, 2006 through January 31, 2007 for Adoption Support Subsidy received by the petitioner and not used for the care of the child.
- (7) Petitioner requested a hearing contesting the proposed recoupment.

CONCLUSIONS OF LAW

The Adoption Subsidy program is established by MCL 400.115, et seq., and is administered by the Department of Human Services (formerly known as the Family Independence Agency) pursuant to MCL 400.10, et seq. Department policies regarding adoption subsidy are found in the Services Manual (SM). The federal law upon which Michigan law is based is Title IV-E of the Social Security Act, Section 473(c).

The State of Michigan administers three adoption subsidy programs: Adoption Support Subsidy; Adoption Medical Subsidy and Nonrecurring Adoption Expenses Reimbursement. The purpose of support and medical subsidies is to remove financial barriers to the adoption of Michigan foster children with special needs, as defined by MCL 400.115f. The purpose of the nonrecurring adoption expense reimbursement program is to assist in paying the out-of-pocket expenses of adoption of special needs children. Based on each individual child's situation and needs, one or more of the subsidy benefits may be available to support their adoption. Some children do not qualify for any subsidy program based on their individual circumstances. Subsidy is available without respect to the income of the adoptive parent(s). The adoption support subsidy is intended to assist with the payment of expenses of caring for and raising the child. It is not

intended to meet all of the costs of raising the child; rather, it is a money grant program, which provides assistance to adoptive parents in certain defined and limited ways. Adoptive parents retain financial and decision-making responsibility and authority for their child. CFA 740 p.1.

Adoption Support Subsidy eligibility shall exist until one of the following conditions occurs:

The child becomes 18 years of age.

The child has not yet reached his/her 18th birthday, but is emancipated by any of the following:

- Court order.
- Marriage.
- Entering the military service.

The child dies.

The adoption is terminated.

The adoptive parent has requested that the payment permanently stop.

A determination of ineligibility is made by the Department of Human Services. One or more of the following are reasons for a determination of ineligibility:

The adoptive parent dies, unless a full legal guardian is appointed by the court and requests continuation of the Adoption Support Subsidy.

The adoptive parents are not providing for the financial support of the child.

Legal guardianship is transferred from the family, unless a court order specifies that the adoptive family must provide financial support of the child equal to the amount of the Adoption Support Subsidy. CFA 792 p. 1.

The parent(s) must notify the Adoption Subsidy Program Office, in writing, within two weeks after any changes occur which might affect subsidy eligibility (i.e., changes in address, death of the child, adoption disruption, marriage of the child, the child's receipt of other

benefits.) CFA 796 Recoupment for overpayments will be pursued retroactively to the date that eligibility ceased to exist.

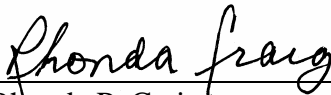
Overpayments shall be recovered according to the Methods for Recoupment in Program Administrative Manual (PAM) Item 705. CFA 745

In the present case, the petitioner received adoption subsidy payments for the period of September 1, 2006 through January 31, 2007 in the amount of \$ 4,298.35. At that time, the child was not residing in petitioner's home. At the hearing, the petitioner testified that she gave her daughter's caretaker \$75 cash and provided \$150 in clothing for the child during the aforementioned period. Petitioner indicated that she had purchased other personal items for the child but did not have receipts or other verification of the purchases. Therefore, those purchases cannot be counted as money spent for the care of the child. The remaining adoption payments were not used for the child's care. The petitioner was therefore not eligible for the Adoption Support Subsidy payments that were not used for the child. Under department policy as cited above, the department must recoup for benefit overpayments. This Administrative Law Judge finds that the attempt to recoup in the amount of \$4,073.35 is in accordance with departmental policy and law.

RECOMMENED DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, recommends to the director of the Department of Human Services that the department was correct in proposing to recoup for Adoption Support Subsidy payments in the amount of \$4,073.35.

IT IS RECOMMENDED that the department's actions be hereby AFFIRMED.


Rhonda P. Craig
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 01/19/10

Date Mailed: 01/20/10

NOTICE

If a party chooses to file Exceptions to this Recommended Hearing Decision, the Exceptions must be filed within ten (10) days after the Recommended Hearing Decision is issued and entered. All Exceptions must be filed for consideration by the Director of the Department of Human Services, mailed to the Office of Legal Affairs Lansing, Suite 715 Grand Tower, PO Box 30037, Lansing, MI 48909 and served on all parties to the proceeding and to the Administrative Law Judge.

RC/dj

cc:

