

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No: 200828799
Issue No: 4060
Case No: [REDACTED]
Hearing Date: July 21, 2011
Wexford County DHS

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to 7 CFR 273.18; 45 CFR 233.20(a)(13); MCL 400.9; MCL 400.37; MCL 400.43(a); MAC R 400.941 and MCL 24.201, *et seq.*, upon a hearing request by the Department of Human Services ("Department") to establish an overissuance of benefits to Respondent. After due notice was mailed to Respondent, a hearing was held on July 21, 2011, at which Respondent did not appear. This matter having been initiated by the Department and due notice having been provided to the Respondent, the hearing was held in Respondent's absence in accordance with Bridges Administrative Manual, Item 725.

ISSUE

Whether Respondent received an overissuance of Child Development and Care Assistance (CDC) benefits that the Department is entitled to recoup?

FINDINGS OF FACT

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

1. Respondent was receiving CDC benefits at all times pertinent to this hearing.
2. Respondent's employment at [REDACTED] ended on March 28, 2008. (Department Exhibits 2 & 3).
3. CDC benefits were paid on the following dates: March 30, 2008 ([REDACTED]), April 13, 2008 ([REDACTED]) and April 27, 2008 ([REDACTED]). (Department Exhibit 5).

4. The total overissuance of [REDACTED] occurred due to a client error because Respondent failed to promptly inform the Department that she was no longer employed as of March 28, 2008. (Department Exhibits 3, 4, & 11).
5. On or about August 8, 2008, the Department mailed Respondent a Notice of Overissuance (DHS-4358-A), Repayment Agreement, and Overissuance Summary. (Department Exhibits 11-15).
6. Respondent submitted a hearing request on August 15, 2008 protesting the debt establishment. (Request for a Hearing).

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 (DHS or Department) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

The Department of Human Services (DHS) may provide a subsidy for child care services for qualifying families when the parent(s)/substitute parent(s) is unavailable to provide the child care because of employment, participation in an approved activity and/or because of a condition for which treatment is being received and care is provided by an eligible provider. BEM 703.

For CDC eligibility to exist for a given child, each parent/substitute parent (P/SP) must demonstrate a valid need reason. This section specifies who must demonstrate those valid need reasons. There are four valid CDC need reasons. Each parent/substitute parent of the child needing care must have a valid need reason during the time child care is requested. Each need reason must be verified and exists only when each parent/substitute parent is unavailable to provide the care because of (1) Family preservation; (2) High school completion; (3) An approved activity or (4) Employment. BEM 703.

CDC eligibility ends based on an approved activity need reason when:

- The client is no longer participating with the MWA or other employment agency.
- The activity is no longer approved.
- The client no longer meets CDC eligibility requirements.
- The need no longer exists. BEM 703.

Department policy states:

BENEFIT OVERISSUANCES

DEPARTMENT POLICY

All Programs

When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the overissuance (OI). This item explains OI types and standard of promptness. BAM, Item 700, p. 1.

OVERISSUANCE TYPES

Department Error

All Programs

A department error OI is caused by incorrect action (including delayed or no action) by DHS staff or department processes. Some examples are:

- . Available information was not used or was used incorrectly
- . Policy was misapplied
- . Action by local or central office staff was delayed
- . Computer or machine errors occurred
- . Information was not shared between department divisions (services staff, Work First agencies, etc.)
- . Data exchange reports were not acted upon timely (Wage Match, New Hires, BENDEX, etc.)

If unable to identify the type of OI, record it as a department error.

FIP, SDA, CDC, and FAP

Department error OIs are not pursued if the estimated OI amount is less than \$125 per program.

Exception: There is no threshold limit on CDC **system** errors. RRS in central office will recoup these types of overissuances.

FIP, SDA and FAP Only

Note: The department error threshold was lowered to \$125 retroactive back to August 1, 2008.

FIP and SDA Only

Treat an OI due to excess assets as a department error **unless** IPV caused it.

CDC Only

CDC department errors and CDC provider department errors must be pursued beginning October 1, 2006. If the CDC department error OI period included the month of October 2006, include the months previous to October 2006 when determining the OI amount.

Note: Department errors will be assigned to the provider or the client depending on the type of department error that occurred. See PAM 705 for examples.

MA, SER and ESS Only

Recoupment of department error OIs are not pursued. BAM 700, pp. 3-4.

Client Error

All Programs

A **client error** OI occurs when the client received more benefits than they were entitled to because the client gave incorrect or incomplete information to the department.

A client error also exists when the client's timely request for a hearing results in deletion of a DHS action, **and**

- . The hearing request is later withdrawn, **or**
- . SOAHR denies the hearing request, **or**

- . The client or administrative hearing representative fails to appear for the hearing and SOAHR gives DHS written instructions to proceed, **or**
- . The hearing decision upholds the department's actions. See BAM 600. BAM Item 700, p. 5.

SDA Only

A client error exists when the client fails to honor an SDA repay agreement after receiving a potential resource. Do not pursue IPV. See BEM 272. BAM 700, p. 5.

OVERISSUANCE THRESHOLD

FIP, SDS, CDC and FAP Only

Department error OIs are not pursued if the estimated OI amount is less than \$125 per program.

Client error OIs are not established if the OI amount is less than \$125, unless:

- . the client or provider is active for the OI program, or
- . the OI is a result of a Quality Control (QC) audit finding. BAM 700, p. 7.

DEPARTMENT ERROR EXCEPTIONS

FIP, SDA, CDC and FAP Only

Department error OIs are not pursued if the estimated OI amount is less than \$125 per program.

Exception: There is no threshold limit on CDC **system** errors. The Reconciliation and Recoupment Section (RRS) in central office will recoup these types of overissuances.

The department error threshold was lowered to \$125 retroactive back to August 1, 2008.

FIP and SDA Only

Treat an OI due to excess assets as a department error **unless** IPV caused it.

FAP Only

Do not recoup OIs caused by the following department errors:

- . The group was certified in the wrong county.
- . The local office failed to have the FAP group sign the application form. BAM 705, pp. 1-2.

MA, SER and ESS Only

Recoupment of department error OIs is not pursued. BAM 705, p. 2.

OVERISSUANCE PERIOD

FIP, SDA, CDC and FAP Only

OI Begin Date

The OI period begins with the first month (or first period for CDC) when benefit issuance exceeds the amount allowed by policy, or 12 months before the discovery date, whichever is later.

To determine the first month of the OI period for changes reported timely and not acted on, allow time for:

- . the full Standard of Promptness (SOP) for change processing, per BAM 220, **and**
- . the full negative action suspense period. See BAM 220, EFFECTIVE DATE OF CHANGE.

OI End Date

The OI period ends the month (or payment period for CDC) before the month when the benefit is corrected.

OI Discovery Date

FIP, SDA, CDC and FAP Only

The OI discovery date for a department error is the date the RS can determine there is a department error. BAM, Item 705, pp. 4-5.

OVERISSUANCE CALCULATION

FIP, SDA, CDC and FAP Only

Benefits Received

FIP and SDA Only

The amount of benefits received in an OI calculation includes:

- . regular warrants
- . supplemental warrants
- . duplicate warrants
- . vendor payments
- . administrative recoupment deductions
- . EBT cash issuances
- . EFT payments
- . replacement warrants (use for the month of the original warrant)

Do not include:

- . warrants that have not been cashed
- . escheated EBT cash benefits (SDA only)

BAM, Item 705, p. 5.

FAP Only

The amount of EBT benefits received in the OI calculation is the **gross** (before Automated Recoupment (AR) deductions) amount issued for the benefit month.

FAP participation is obtained on CIMS on the IATP screen.

If the FAP budgetable income included FIP/SDA benefits, use the grant amount actually received in the OI month. Use the FIP benefit amount when FIP closed due to a penalty for non-cooperation with employment-related activity or child support. BAM 705, p. 6.

Determining Budgetable Income

FIP, SDA, CDC and FAP Only

If improper budgeting of income caused the OI, use actual income for the past OI month for that income source.

Convert income received weekly or every other week to a monthly amount.

Exception: For FAP only, income is not converted from a wage match for any type of OI.

Any income properly budgeted in the issuance budget remains the same in that month's corrected budget.

FAP Only

If the FAP budgetable income included FIP/SDA benefits, use the grant amount actually received in the OI month. Use the FIP benefit amount when FIP closed due to a penalty for non-cooperation in an employment-related activity. BAM, Item 705, p. 6.

In this case, the department is requesting recoupment for a CDC overissuance in the amount of [REDACTED] for March 30, 2008, April 13, 2008 and April 30, 2008. This is a client error because Respondent failed to notify the Department that she no longer was employed as of March 28, 2008. Respondent received CDC benefits for child care services rendered at the time she was unemployed. Because Respondent was no longer employed at the relevant time, she was not eligible for CDC benefits.

Department policy indicates that when a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the overissuance. PAM 700. The Department will not recoup a client error overissuance if the amount is less than [REDACTED]. PAM 715. The overissuance in this case is [REDACTED] so it must be recouped by the department.

This Administrative Law Judge finds that the evidence presented by the department shows that Respondent is responsible for repayment of the overissuance of CDC benefits for March 30, 2008, April 13, 2008 and April 30, 2008.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Respondent received an overissuance of CDC benefits for the following dates: March 30, 2008, April 13, 2008 and April 30, 2008. The Department is entitled to recoup the CDC overissuance from these dates.

The department is therefore entitled to recoup CDC overissuance of [REDACTED] from Respondent.

It is SO ORDERED.

/s/

C. Adam Purnell
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: August 4, 2011

Date Mailed: August 5, 2011

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this Decision and Order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 60 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

CAP/cr

cc:

[REDACTED]