

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 2008-14408
Issue No.: 6052
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: September 15, 2010
Genesee County DHS (2)

ADMINISTRATIVE LAW JUDGE: Michael J. Bennane

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Department of Human Service (Department) request for a disqualification hearing. After due notice, a telephone hearing was held on September 15, 2010. The claimant appeared and testified. The Department was represented by [REDACTED]

ISSUE

- (1) Did Respondent receive an over issuance of CDC benefits totaling \$2,465.21 during the period of October 1, 2006, through August 18, 2007?
- (2) Is the Department entitled to recoup \$2,465.21 in CDC 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) On February 7, 2008, the Department filed a hearing request to establish that the respondent received an over issuance of benefits; and the Department is requesting to recoup \$2,465.21 in CDC benefits for the period of October 1, 2006, through August 18, 2007.
- (2) The department acknowledges that the error was made by the department.

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).

In this case, the respondent argues that because the department made the error in not including her child's father as part of the program group she should not have to repay the over issuance. In addition the respondent argues that the man living with her and her children is not the father of all her children and therefore should not count in the group.

When CDC is requested for a child, each of the following persons who live together must be in the program group:

Each child for whom care is requested; **and**

Each child's parent(s) or stepparent **and**

Each child's unmarried, under age 18, sibling(s), stepsiblings or half sibling(s); and

The parent(s) or stepparent of any of the above sibling(s); **and**

Any other unmarried child(ren) under age 18 whose parent, stepparent or legal guardian is a member of the program group. (PEM 205, p.1).

In the instant case the man living with the respondent is the father of one of her children.

That child is the half sibling of the second child and therefore must be included in the CDC group.

BENEFIT OVERISSUANCES: PAM 700, p. 1

DEPARTMENT POLICY

All Programs

When a customer group receives more benefits than they are entitled to receive, the department must attempt to recoup the over issuance (OI).

The **Automated Recoupment System (ARS)** is the part of CIMS that tracks all FIP, SDA and FAP OIs and payments, issues automated collection notices and triggers automated benefit reductions for active programs.

An **over issuance (OI)** is the amount of benefits issued to the customer group in excess of what they were eligible to receive.

Over issuance Type identifies the cause of an over issuance.

Recoupment is a department action to identify and recover a benefit over issuance. PAM 700, p.1.

PREVENTION OF OVERISSUANCES

All Programs

The department must inform customers of their reporting responsibilities and act on the information reported within the standard of promptness.

During eligibility determination and while the case is active, customers are repeatedly reminded of reporting responsibilities, including:

- acknowledgments on the application form, **and**
- your explanation at application/re-determination interviews, **and**
- customer notices and program pamphlets.

The department must prevent OIs by following PAM 105 requirements and by informing the customer or authorized representative of the following:

- Applicants and recipients are required by law to give complete and accurate information about their circumstances.
- Applicants and recipients are required by law to promptly notify the department of any changes in circumstances within 10 days.
- Incorrect, late reported or omitted information causing an OI can result in cash repayment or benefit reduction.
- A timely hearing request can delete a proposed benefit reduction. If the department is upheld or the customer fails to appear at the hearing, the customer must repay the OI.

Record on the application the customer's comments and/or questions about the above responsibilities. PAM 700, p.2.

OVERISSUANCE AMOUNT

FIP, SDA, CDC and FAP Only

The amount of the OI is the amount of benefits the group actually received minus the amount the group was eligible to receive. PAM 720, p. 6.

In the instant case, the Department has established by clear and convincing evidence that Respondent was receiving more benefits than allowed.

The Department is entitled to recoup the amount the Department claims was issued in excess of what the Respondent was eligible to receive. The undersigned has reviewed the CDC payment histories and finds the requested recoupment to be correct. The Department is entitled to recoup \$2,465.21 in CDC benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the clear and convincing evidence, decides the following:

200814408/MJB

The evidence does establish that the Respondent received an over issuance of the CDC programs. The Department's request to recoup the CDC over issuance is GRANTED.

The Department is entitled to recover \$2,465.21 in CDC over issuances.



Michael J. Bennane
Administrative Law Judge
For Ismael Ahmed, Director
Department of Human Services

Date Signed: 10/04/2010

Date Mailed: 10/04/2010

NOTICE: The law provides that within 60 days from the mailing date of the above decision the Respondent may appeal it to the circuit court for the county in which he/she resides or has his or her principal place of business in this state, or in the circuit court for Ingham County. Administrative Hearings, on its own motion, or on request of a party within 60 days of the mailing date of this Hearing Decision, may order a rehearing.

MJB/jlg

cc:

