

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.: 2008-20346
Issue No.: 6004
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date: August 19, 2010
DHS County: Wayne

ADMINISTRATIVE LAW JUDGE: Rhonda Craig

RECOMMEND 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, a telephone hearing was held on August 19, 2010. Petitioner appeared and testified.

ISSUE

Did the Department of Human Services (DHS) properly propose to recoup for Adoption Subsidy Payments made to Petitioner?

FINDINGS OF FACT

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

1. The child, Petitioner's niece ([REDACTED]), began living with Petitioner in October of 2005. Petitioner was a foster care parent receiving foster care payments for the care of the child.
2. The child was made a ward of the Court and placed with Petitioner on September 11, 2006. At that time, Petitioner began receiving Adoption Support subsidy payments.
3. On April 16, 2007, the Court dismissed Petitioner's Petition for Adoption.
4. The child remained in Petitioner's home until July 20, 2007.
5. On July 5, 2007, Petitioner was issued an Adoption Support Subsidy payment in the amount of \$ 555. 47.

6. DHS is seeking recoupment of Adoption Support Subsidy payments issued from April 16, 2007, through July 31, 2007, in the amount of \$1,940.31.
7. Petitioner requested a hearing contesting the recoupment.

CONCLUSIONS OF LAW

The Adoption Subsidy program is established by MCL 400.115, *et seq.*, and is administered by the DHS (formerly known as the Family Independence Agency) pursuant to MCL 400.10, *et seq.* DHS' 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.

DHS has an administrative hearing process to provide for the right to contest a DHS decision or case action when a client believes the decision is contrary to law or DHS policy. The issues of eligibility, computation of subsidy rates, case closure, and/or reduction of benefits are issues subject to administrative hearings.

The department policy at the time the Adoption Support Subsidy was reportedly paid was as follows:

... 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. CFA 792 p. 1.

... 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. Recovery of subsidy overpayments is handled by the Payment Reconciliation Section in Central Office. CFA 745 p. 1.

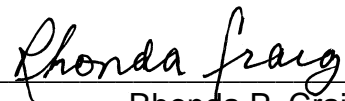
... The amount of the OI is the benefit amount the group actually received minus the amount the group was eligible to receive. PAM 705 p. 5.

In the present case, DHS is seeking recoupment for Adoption Subsidy payments purportedly issued to Petitioner for April 16, 2007, through July 31, 2007, in the amount of \$ 1,940.31. At the hearing, DHS was unable to provide documentation that all but a payment of \$555.47 were issued. Further it was established that DHS (Foster Care Division) was aware that the child continued to reside with Petitioner during this period and may have been entitled to foster care payments for this period. This may offset the Adoption Subsidy overissuance. It is clear, however, that Petitioner would not be entitled to Adoption Subsidy payment during this time, but DHS has failed to establish an amount of overpayment in excess of \$555.47. Pursuant to policy cited above, the amount of overissuance is the amount received minus the amount the recipient was entitled to receive. Therefore, this Administrative Law Judge can only find an overissuance in the amount of \$555.47.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS is correct in seeking recoupment for an overissuance in Adoption Support Subsidy payments but the department erred in the amount of recoupment.

IT IS ORDERED THAT the department is entitled to recoup for an overissuance in Adoption Subsidy benefits in the amount of \$555.47.



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

Date Signed: August 23, 2010

4008-20346/RC

Date Mailed: August 23, 2010

NOTICE: The law provides that within 60 days of mailing of the above Decision and Order the claimant may appeal the Decision to the probate court for the county in which the petition for adoption was filed. If the adoptee is a resident of the State, the petition may be filed in the probate court for the county in which the adoptee is found. Administrative Hearings, on its own motion, or on request of a party within 60 days of the mailing date of this Decision and Order, may order a rehearing.

RPC/pf

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