

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],
Claimant

Reg. No: 2009-4720
Issue No: 4060
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 13, 2010
Barry County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on October 6, 2008. After due notice, a telephone hearing was held on Tuesday, July 13, 2010.

ISSUE

Whether the Department of Human Services (Department) properly determined that the Claimant received an overissuance of Child Development and Care (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) The Department received the Claimant's application for Child Development and Care (CDC) benefits on July 18, 2007. Department Exhibits 4 – 14.

(2) The Department approved the Claimant for CDC benefits on July 26, 2007.

Department Exhibit 1.

(3) On October 17, 2007, the Claimant reported to the Department that her husband's employment had changed. Department Exhibit 16.

(4) The Claimant's household received countable earned income in the gross monthly amount of [REDACTED] for the month of November 2007. Department Exhibit 31.

(5) The Claimant changed employers in January of 2008. Department Exhibit 27.

(6) The Department conducted a yearly review on July 31, 2008, and discovered it did not use the Claimant's income to determine her CDC eligibility. Department Exhibit 17.

(7) On September 22, 2008, the Department notified the Claimant that due to Department error, she had received a total of [REDACTED] in CDC benefits that she was not entitled to receive. Department Exhibit 26 – 29.

(8) On October 2, 2008, the Department revised its calculations of overissued benefits to [REDACTED]. Department Exhibit 26 – 29.

(9) The Department received the Claimant's request for a hearing on October 6, 2008, protesting the recoupment of CDC benefits.

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).

All earned and unearned income available to the Claimant is countable. Earned income means income received from another person or organization or from self-employment for duties for duties that were performed for compensation or profit. Unearned income means all income that is not earned, including but not limited to funds received from the Family Independence Program (FIP), State Disability Assistance (SDA), Child Development and Care (CDC), Medicaid (MA), Social Security Benefits (RSDI/SSI), Veterans Administration (VA), Unemployment Compensation Benefits (UCB), Adult Medical Program (AMA), alimony, and child support payments. The amount counted may be more than the client actually receives because the gross amount is used prior to any deductions. BEM 500.

The Department determines a client's eligibility for program benefits based on the client's actual income and/or prospective income. Actual income is income that was already received. Prospective income is income not yet received but expected. Prospective budgeting is the best estimate of the client's future income. BEM 505.

All income is converted to a standard monthly amount. If the client is paid weekly, the Department multiplies the average weekly amount by 4.3. If the client is paid every other week, the Department multiplies the average bi-weekly amount by 2.15. BEM 505.

An overissuance is the amount of benefits issued to the client group in excess of what they were eligible to receive. BAM 705. The amount of the overissuance is the amount of benefits the group actually received minus the amount the group was eligible to receive. BAM

720. When a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the overissuance. BAM 700.

Agency errors are caused by incorrect actions by the Department. BAM 705. Agency error overissuances are not pursued if the estimated overissuance is less than \$125 per program. BAM 700. Client errors occur when the customer gave incorrect or incomplete information to the Department. Client errors are not established if the overissuance is less than \$125 unless the client group is active for the overissuance program, or the overissuance is a result of a QC audit finding. BAM 700.

The Department received the Claimant's application for CDC benefits on July 18, 2007, and approved her for benefits on July 26, 2007. The Claimant also received Food Assistance Program (FAP) benefits. The Claimant reported to the Department on October 17, 2007, that her husband had changed employment. As a result of a change in earned income, the Department terminated the Claimant's Food Assistance Program benefits due to excess income. Due to Department error, the Claimant's change in income was not used to determine her eligibility for CDC benefits.

The Claimant is paid on a bi-weekly basis, and received a paycheck for [REDACTED] on June 29, 2007 and [REDACTED] on July 13, 2007. The average of these paychecks produces an average bi-weekly income of [REDACTED], and is multiplied by a factor of 2.15 to produce a prospective monthly income of [REDACTED]. During the month of November, the Claimant's husband received paychecks of [REDACTED], and [REDACTED] for an average weekly income of [REDACTED]. This amount is multiplied by a factor of 4.3 to produce a prospective monthly income of [REDACTED].

The sum of the Claimant and her husband's income determines their monthly gross income of [REDACTED]. The maximum amount a group of three can receive and remain eligible for CDC benefits is [REDACTED]. Although the Claimant was not eligible for CDC benefits during the month of November, the Department issued the Claimant a total of [REDACTED] in CDC benefits because it failed to consider her household's entire income.

The Claimant received [REDACTED] in CDC benefits from October 28, 2007, through June 8, 2008. The Claimant was not entitled to receive this amount due the Department's error of not considering the Claimant's income.

During a case conference with the Department, the Claimant pointed out that her income had fluctuated during the period she received CDC benefits. The Claimant provided a printout of her husband's earned income from January 30, 2008 through March 19, 2008, which shows a reduction in income compared to previous months. Based on this additional information, the Department revised its overissuance determination, and notified the Claimant that it would recoup a total of [REDACTED] as a Department error, and [REDACTED].

Based on a monthly household income of [REDACTED], the Claimant was not eligible for the CDC benefits she received from October 28, 2007, through June 8, 2009. The Department has established that the Claimant was not eligible to receive CDC benefits from October 28, 2007, through December 9, 2007, and from April 13, 2008, through June 8, 2008, due to excess income. The Department does not dispute that the Claimant had reported her income in a timely manner. The Department has established that the Claimant did receive an overissuance of benefits totally [REDACTED] during this period due to Department error, which the Department is entitled to recoup.

The Department has not established that the Claimant received an overissuance of benefits from December 23, 2007 through March 30, 2008. The Department does not dispute that the Claimant's earnings changed during this period, but the Department did not present sufficient evidence that it determined the Claimant's eligibility for CDC benefits using the revised income figures. In addition, the Department failed to establish that the Claimant and her husband were not working sufficient hours to establish a need for CDC benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department has established that the Claimant received an overissuance of CDC benefits totally [REDACTED] during the period October 28, 2007 through December 9, 2007, and from April 13, 2008 through June 8, 2008, due to Department error. The Department has established that it is entitled to recoup these funds. The Department has failed to establish that it is entitled to recoup benefits that the Claimant received during the period December 23, 2007, through March 30, 2008 totaling [REDACTED].

The Department's determination that it is entitled to recoup an overissuance of CDC benefits totally [REDACTED] during the period October 28, 2007, through December 9, 2007, and from April 13, 2008 through June 8, 2008 due to Department error is AFFIRMED. It is SO ORDERED.

The Department's determination that it is entitled to recoup an overissuance of CDC benefits during the period December 23, 2007 through March 30, 2008 due to Client error is REVERSED. It is further ORDERED that the Department shall:

1. Initiate a determination of the Claimant's eligibility for CDC benefits for the period December 23, 2007, through March 30, 2008.

2. Allow the Claimant the opportunity to clarify whether there was a need for CDC benefits during this period.
3. Notify the Claimant in writing of the Department's revised eligibility determination.

/s/

Kevin Scully
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: July 27, 2010

Date Mailed: July 28, 2010

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.

KS/vc

cc:

