

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],
Respondent

Reg. No.: 2009-6189
Issue No.: 6052
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
June 3, 2009
St. Clair County DHS

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, 7 CFR 273.16, MAC R 400.3130, and MAC R 400.3178 upon the Department of Human Service (Department) request for a disqualification hearing. After due notice, a telephone hearing was held on June 3, 2009. The Respondent did not appear. The Department was represented by [REDACTED] Agent, Office of Inspector General (OIG).

ISSUES

- (1) Did Respondent commit an Intentional Program Violation (IPV) of the Child Developmental and Care Program (CDC)?
- (2) Is the Department entitled to recoup \$1,057.00 in CDC benefits?

FINDINGS OF FACT

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

- (1) On November 19, 2008, the Department's OIG filed a hearing request to establish Respondent allegedly intentionally withheld information and received an over issuance of

benefits; and the Department is requesting to recoup \$1,057.00 in CDC benefits for the period of June 1, 2006, through August 31, 2006.

- (2) On October 3, 2005, and June 20, 2006, the Respondent signed applications/re-determinations and acknowledged her duty to report changes to the Department within ten days. (Department's exhibit pp.9-20).
- (3) On August 14, 2006, the Department received evidence that the child care was no longer needed to care for the respondent's child/children. (Department's exhibit p.21).
- (4) On November 27, 2006, the Department produced a record of the CDC benefits issued to the Respondent. (Department's exhibit 22).
- (5) The Department mailed a notice of this hearing to the Respondent at her last known address: [REDACTED]; and the mail was not returned.

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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

In this case, the department requested a disqualification hearing; to establish an over issuance of benefits; to recoup the over issuance. The department's manuals provide the relevant policy statements and instructions for department caseworkers. In part, the policies provide:

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.

INTENTIONAL PROGRAM VIOLATION

SUSPECTED IPV

All Programs

Suspected IPV means an OI exists for which all three of the following conditions exist:

- The customer intentionally failed to report information or intentionally gave incomplete or inaccurate information needed to make a correct benefit determination; **and**
- The customer was clearly and correctly instructed regarding his or her reporting responsibilities; **and**
- The customer has no apparent physical or mental impairment that limits his or her understanding or ability to fulfill his reporting responsibilities.

Intentional Program Violation (IPV) is suspected when the customer has **intentionally** withheld or misrepresented information for the **purpose** of establishing, maintaining, increasing or preventing reduction of program benefits or eligibility. There must be clear and convincing evidence that the customer acted intentionally for this purpose. PAM 720, p.1

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.

IPV Hearings

FIP, SDA, CDC, MA and FAP Only

OIG represents the department during the hearing process for IPV hearings.

OIG requests IPV hearings when no signed FIA-826 or FIA-830 is obtained, and correspondence to the customer is not returned as undeliverable, or a new address is located.

OIG requests IPV hearings for cases involving:

1. Prosecution of welfare fraud or . . . is declined by the prosecutor for a reason other than lack of evidence, **and**

The total OI amount of FIP, SDA, CDC, MA and FAP programs combined is \$1,000.00 or more or

All Programs

Suspected IPV means an OI exists for which all three of the following conditions exist:

- The customer intentionally failed to report information or intentionally gave incomplete or inaccurate information needed to make a correct benefit determination; **and**
- The customer was clearly and correctly instructed regarding his or her reporting responsibilities; **and**
- The customer has no apparent physical or mental impairment that limits his or her understanding or ability to fulfill his/her reporting responsibilities. PAM 720, p. 1.

The record shows that the respondent was not participating in work first activities and that they were the reason for the CDC benefits.

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 history and finds the requested recoupment to be correct. The Respondent owes \$1,057.00 in CDC benefits.

DECISION AND ORDER

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

The evidence does establish that the Respondent committed a first IPV of the CDC program. The Department is entitled to recover \$1, 057.00 in CDC over issuance.

/s/

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

Date Signed 06/24/09

Date Mailed 06/25/09

NOTICE: The law provides that within 30 days of receipt of the above Decision and Order, the respondent may appeal it to the circuit court for the county in which he/she lives.

MJB/jlg

cc:

