

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: 2009-16707
Issue No: 6052
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 10, 2009
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

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 Services (department) request for a disqualification hearing. After due notice, a hearing was held on June 10, 2009. Respondent appeared and testified.

ISSUE

Whether respondent committed an Intentional Program Violation (IPV) and whether respondent received an overissuance of benefits that the department is entitled to recoup?

FINDINGS OF FACT

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

(1) On April 14, 2005, Respondent submitted an application for Child Development and Care (CDC) benefits. The Department also received a care provider application for [REDACTED], which was not signed. The DHS caseworker gave Respondent a Verification Checklist (DHS Form 3503) requiring signature of the care provider application by the care provider.

Respondent turned the application back in with a signature on it but no date. The care provider application stated [REDACTED] was the children's aunt, that the children would be cared for in [REDACTED] home, and gave a previously assigned care provider number ([REDACTED]).

(2) On April 16, 2005, billing for care of Respondent's children began under provider number [REDACTED]. The day care billing continued until October 15, 2005, when Respondent ended her employment. Respondent was payed directly and cashed all the checks.

(3) On September 25, 2007, [REDACTED] signed an affidavit stating she was not Respondent's children's aunt, she had not watched them at any time, and did not receive or sign any checks. [REDACTED] mother also signed an affidavit stating that Respondent's children had never been on their property.

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

In this case, the department has requested a disqualification hearing to establish an overissuance of benefits as a result of an IPV and the department has asked that respondent be disqualified from receiving benefits. The department's manuals provide the following relevant policy statements and instructions for department caseworkers:

PAM 720 INTENTIONAL PROGRAM VIOLATION

DEPARTMENT POLICY

All Programs

Recoupment policies and procedures vary by program and overissuance (OI) type. This item explains Intentional Program Violation (IPV) processing and establishment. [PAM 700](#) explains OI discovery, OI types and standards of promptness. [PAM 705](#) explains agency error and [PAM 715](#) explains client error.

DEFINITIONS

All Programs

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

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

IPV is suspected when there is clear and convincing evidence that the client or CDC provider has intentionally withheld or misrepresented information for the **purpose** of establishing, maintaining, increasing or preventing reduction of program benefits or eligibility.

FAP Only

IPV is suspected for a client who is alleged to have trafficked FAP benefits.

IPV

FIP, SDA and FAP

The client/authorized representative (AR) is determined to have committed an IPV by:

- A court decision.
- An administrative hearing decision.
- The client signing a DHS-826, Request for Waiver of Disqualification Hearing or DHS-830, Disqualification Consent Agreement or other recoupment and disqualification agreement forms.

During the hearing Respondent testified that [REDACTED] had watched her children and had been paid for doing so. Respondent testified that [REDACTED] was not really the children's aunt but that is what they called her because she dated her (Respondent's) brother, the children's uncle. There is a significant difference between [REDACTED] signatures on the care provider application and her affidavit and identification card. When this was discussed with Respondent she stated the care provider application might have been signed for her ([REDACTED]) by someone else, like her mother. Respondent specifically testified that she (Respondent) was not present when [REDACTED] name was put in the signature block of the care provider application. Respondent was asked if she had any proof of payment to [REDACTED] and stated no that she had paid [REDACTED] in cash all the time.

The evidence in this case shows that [REDACTED] did not provide the child care billed to the Department for Respondent's children. Even though Respondent was eligible for Child Development and Care (CDC) services due to her work, the services would have to be provided by a care provider authorized by the Department of Human Services. Issuance of Child Development and Care (CDC) funds for any other purpose is not correct and is an over-issuance.

DECISION AND ORDER

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

(1) Respondent committed an intentional program violation by submitting a care provider application for a person who she neither intended to use, nor did use, to care for her children.

(2) Respondent was over-issued Child Development and Care (CDC) benefits between April 16, 2005 and October 24, 2005 in the amount of \$6,293. The Department of Human Services is entitled to recoup the \$6,293 over-issuance.

/s/

Gary F. Heisler
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: June 25, 2009

Date Mailed: June 26, 2009

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.

GFH 

cc: 