

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: 200922725  
Issue No: 6052  
Case No: [REDACTED]  
Load No: [REDACTED]  
Hearing Date:  
August 12, 2009  
Saginaw County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

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' request for a disqualification hearing. After due notice, a telephone hearing was held on August 12, 2009. Respondent appeared at the hearing.

ISSUE

Did the respondent commit an Intentional Program Violation (IPV) and did the respondent receive 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) Respondent was a recipient of CDC benefits during the period of March, 2007 through July, 2007.
- 2) Respondent was participatory with the JET program at this time.

- 3) Respondent's CDC provider contacted the Department in June, 2008 to complain that she had not received her payment from the CDC program.
- 4) Respondent's CDC checks had been seized by the Treasury Department to pay private debts held by respondent.
- 5) The Department, unaware that Treasury had been seizing CDC payments, interpreted the CDC provider statements to mean that respondent had been keeping the CDC checks for herself.
- 6) In a signed letter, the CDC provider testified that she had meant that the State had seized CDC checks that were meant for the provider.
- 7) The CDC provider had received all CDC payments other than those seized by Treasury.
- 8) On April 8, 2009, the Department's Office of Inspector General (OIG) filed a hearing request to establish an overissuance of benefits received by respondent as a result of respondent having committed an Intentional Program Violation (IPV); the OIG also requested that respondent be disqualified from receiving program benefits.
- 9) A Notice of Disqualification Hearing was mailed to respondent at the last known address and was not returned by the U.S. Post Office as undeliverable.
- 10) OIG Agent Michelle Vasquez represented the Department at the hearing; respondent appeared and represented herself.
- 11) This is respondent's first alleged IPV.

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:

**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.

Intentional Program Violation (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. PAM, Item 720, p. 1.

Therefore, the undersigned may only find an IPV if there is clear and convincing evidence that the respondent intentionally made a false or misleading statement, or intentionally withheld information with the intention to commit an IPV. Thus, the Department must not only prove that the respondent committed an act, but that there was intent to commit the act.

Respondent testified at hearing that the CDC checks in question had been seized by the Treasury Department in order to pay private debts. The Administrative Law Judge is personally familiar with the problem and can confirm that this does happen; the undersigned therefore finds the respondent's testimony completely credible.

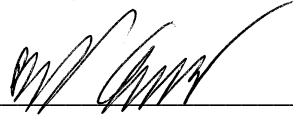
Respondent's CDC provider also testified, via written statement, that respondent had paid her all the CDC benefits in question that the Department wishes to recoup, except for the two checks that were seized by Treasury. She further testified that when she reported that she had not been paid, this call was misinterpreted by the Department, who was unaware that Treasury was seizing benefit checks at this time. The Administrative Law Judge, having personal experience with this issue, also finds this statement credible, and believes that the Department was unaware of the problem.

Regardless, given the testimony and circumstances in this case, the undersigned does not believe that the checks in question were kept by the claimant. Therefore, the Department has not demonstrated that claimant committed an IPV or received funds she was not entitled to.

DECISION AND ORDER

The Administrative Law Judge decides the Department has not established that respondent committed an Intentional Program Violation of the CDC program. Respondent received no CDC benefits that she was ineligible for.

Recoupment is DENIED.



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Robert J. Chavez  
Administrative Law Judge  
for Ismael Ahmed, Director  
Department of Human Services

Date Signed: 05/28/10

Date Mailed: 06/04/10

**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.

RJC/dj

cc:

