

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.: 2010-26924
Issue No.: 6052
Case No.: [REDACTED]
Load No.: [REDACTED]
Hearing Date:
June 30, 2010
Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Jeanne M. VanderHeide

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Department's request for a hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on June 30, 2010. The Respondent appeared and testified. [REDACTED], OIG representative appeared on behalf of the Department.

ISSUE

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

FINDINGS OF FACT

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

1. 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 IPV. The OIG also requested that respondent be disqualified from receiving program benefits.

2. Respondent was a recipient of CDC benefits beginning at least in June, 2006.
3. Respondent was off work for six weeks until September, 2006 due to a surgical procedure.
4. Respondent was aware of the responsibility to report a change in childcare provisions to the department and had no apparent physical or mental impairment that would limit the understanding or ability to fulfill this requirement.
5. Respondent testified that her child's father moved out of town and stopped providing care for the minor child. Respondent also testified that she stopped calling in CDC hours once the provider stopped providing care.
6. Defendant argues that respondent committed an IPV as a result of receiving CDC benefits when no care was provided and received an overissuance of benefits in the amount of \$1,539.00 under the CDC program.
7. The Department has not established that respondent committed an IPV.
8. A notice of disqualification hearing was mailed to respondent at the last known address and was not returned by the US Post Office as undeliverable.

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 Bridges/Program Administrative Manual (BAM/PAM), the Bridges/Program Eligibility Manual (BEM/PEM) and the Reference Tables (RFT).

When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the over issuance (OI). PAM 700, p. 1. DHS must inform clients of their reporting responsibilities and prevent OIs by following PAM 105 requirements informing the client of the requirement to promptly notify DHS of all changes in circumstances within 10 days. PAM 700, PAM 105. Incorrect, late reported or omitted information causing an OI can result in cash repayment or benefit reduction.

An Intentional Program Violation (IPV) is suspected when there is clear and convincing evidence that the client has intentionally withheld or misrepresented information for the purpose of establishing, maintaining, increasing or preventing reduction of program benefits or eligibility. PAM 720, p. 1. The amount of the OI is the amount of benefits the group or provider actually received minus the amount the group was eligible to receive. PAM 720, p. 6.

In the present case, the Department has established that respondent was aware of the responsibility to report all employment and income for persons living in the household and had no apparent limitations to fulfilling this requirement. The respondent testified credibly, however, that the father of her children continued to provide childcare following her surgery in 2006. Respondent could not remember exactly how long he provided the childcare but testified credibly that she stopped calling in the childcare hours once he stopped.

Both the Department and the Respondent relied on conflicting statements made by the provider to support their testimony. The undersigned finds that the provider statements are hearsay pursuant to MRE 801 as the provider was not subject to cross examination. Nor do the statements meet any of the hearsay exceptions found under MRE 803. Accordingly, the Administrative Law Judge has excluded from evidence any statements made by the provider and has ruled below without taking the provider statements into consideration. Without said

statement by the provider, the Department does not have sufficient evidence to show that the Claimant received unwarranted CDC benefits.

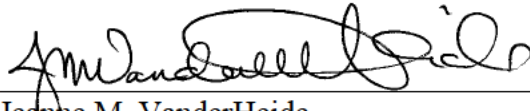
Based on the above findings of fact and conclusions of the law, the Administrative Law Judge finds that respondent did not commit an IPV and was not overissued CDC benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that respondent did not commit an IPV with regard to the CDC program.

Furthermore, the department has not established that respondent received an overissuance of CDC benefits.

Accordingly, the department's request for disqualification and recoupment is DENIED.



Jeanne M. VanderHeide
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 07/19/2010

Date Mailed: 07/19/2010

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.

JV/cjp

cc:

