

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER:



Reg No. 201032121
Issue No. 6019
Case No. [REDACTED]
Load No. [REDACTED]
Hearing Date: August 24, 2010
Genesee County DHS

ADMINISTRATIVE LAW JUDGE: Jana A. Bachman

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a telephone hearing was held on August 24, 2010.

ISSUES

Whether the Department of Human Services (department) acted in compliance with department policy when it determined claimant's Child Development and Care (CDC) benefits. Is the department entitled to recoup CDC overpayment that occurred due to department error?

FINDINGS OF FACT

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

1. During June 2009 through January 2010, claimant received CDC from the department.
2. During June 2009, claimant reported to the department that her children's father was now residing in her home. Department Exhibit A, pg 16.
3. The department continued to authorize CDC through January 2010 despite the father of the children living in the home and not having an approved need for CDC eligibility.

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).

Department manuals provide the following policy statements and instructions for caseworkers:

There are four reasons why CDC may be approved:

- a. Family Preservation,
- b. High School Completion,
- c. Approved Activity, and
- d. Employment.

Child Care and Development Block Grant of 1990. 45 CFR Parts 98 and 99; P.L. 104-193 PRWORA; Social Security Act as amended, Titles IVA, (42 USC 601 et. seq.); Title IVE (42 USC 670 et.seq.); Title XX (42 USC, 1397 et.seq.); R 400.5001-400.5015 MAC; P.L. 508

CDC agency errors and CDC provider agency errors must be pursued beginning October 1, 2006.

OBRA 1990, Section 5082, as amended; P.L. 101-508; 45 CFR Parts 98 and 99; Social Security Act as amended, Title IVA (42 USC 601 et. seq.), Title IVE (42 USC 670 et. seq.). Title XX (42 USC 1397 et. seq.); R 400.5014

The Administrative Law Judge has examined the record and department policy and finds that claimant was not entitled to CDC payments when the father of the children was residing in the home. The father did not assert an acceptable "need" reason and therefore, was considered available to care for the children. As such, no CDC payments should have been authorized, but through department error, payments continued. The department is required to recoup CDC assistance when received ineligibly, even when due to department error. Accordingly, the department's action must be upheld. Finding of Fact 1-3.

DECISION AND ORDER

The Administrative Law Judge based upon the above findings of fact and conclusions of law, decides the Department of Human Services acted in compliance with department policy when it determined claimant's Child Development and Care eligibility and when it determined that an overissuance occurred that was required to be recouped.

Accordingly, the department's action is, hereby, UPHELD.

/s/

Jana A. Bachman
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: November 29, 2010

Date Mailed: November 30, 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 90 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.

JAB/db

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