

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARINGS SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:

[REDACTED]

Reg. No. 201036652
Issue No. 3052
Case No. [REDACTED]
Hearing Date: June 22, 2011
Wayne County DHS (18)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon a Department of Human Services (DHS) request for a hearing. After due notice, a telephone hearing was held on June 22, 2011 from Detroit, Michigan. On behalf of DHS, [REDACTED] Manager, and [REDACTED], Specialist, appeared and testified. Respondent appeared and testified.

ISSUE

Whether DHS may pursue debt collection actions against Respondent for over-issued Child Development and Care (CDC) benefits caused by CDC provider error.

FINDINGS OF FACT

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

1. Respondent was an ongoing CDC benefit recipient.
2. In 5/2009, Respondent stopped working and reported the employment stoppage to DHS.
3. Employment was the need reason for CDC benefits.
4. On an unspecified date, Respondent's former CDC provider billed DHS for a CDC pay period from 10/25/09-11/7/09 for \$199.22.

5. On 2/5/10, DHS initiated a DHS agency overissuance and debt collection against Respondent for the \$199.22 in CDC benefits.
6. On 2/12/10, Respondent requested a hearing to dispute the attempted recoupment and debt collection against her.

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 found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Reference Tables Manual (RFT).

DHS requests a “Debt Collection Hearing” when the grantee of an inactive program requests a hearing after receiving the DHS- 4358B, Agency and Client Error Information and Repayment Agreement. BAM 725 at 13. Active recipients are afforded their hearing rights automatically, but DHS must request hearings when the program is inactive. *Id.* Though the client must request a hearing to trigger a “Debt Collection Hearing”, the hearing is considered to be DHS requested. The hearing decision determines the existence and collectability of a debt to DHS.

When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the over-issuance (OI). BAM 700 at 1. An OI is the amount of benefits issued to the client group in excess of what they were eligible to receive. *Id.* Recoupment is a DHS action to identify and recover a benefit OI. *Id.*

DHS may pursue an OI whether it is a client caused error or DHS error. *Id.* at 5. Client and Agency error OIs are not pursued if the estimated OI amount is less than \$125 per program. BAM 700 at 7. If improper budgeting of income caused the OI, DHS is to recalculate the benefits using actual income for the past OI month for that income source. BAM 705 at 6.

DHS is to request a debt collection hearing only when there is enough evidence to prove the existence and the outstanding balance of the selected OIs. *Id.* at 15. Existence of an OI is shown by:

- A signed repayment agreement, or
- A hearing decision that establishes the OI, or

- If a repay, court/hearing decision cannot be located: copies of the budgets used to calculate the OI, copies of the evidence used to establish the OI, and copies of the client notice explaining the OI. BAM 725 at 15.

OI balances on inactive cases must be repaid by lump sum or monthly cash payments unless collection is suspended. *Id.* at 6. Other debt collection methods allowed by DHS regulations include: cash payments by clients, expunged FAP benefits, State of Michigan tax refunds and lottery winnings, federal salaries, federal benefits and federal tax refunds. *Id.* at 7.

In debt collection actions against CDC providers, the reconciliation and recoupment section (RRS) is responsible for collecting and recording provider errors. BAM 725 at 2. Reconciliation and recoupment section staff enters the overissuance into the automated provider recoupment system. *Id.* The system produces a first notice and overpayment detail and acceptance report which are mailed to the child care provider. *Id.* The provider is instructed to review and complete the report and mail it back to reconciliation and recoupment section. *Id.*

In the present case, DHS attempted to recoup a payment made from DHS to a CDC provider. DHS conceded that the error was in no way the fault of Respondent. DHS also conceded that Respondent in no way profited from the payment. Based on the DHS concessions, there is no way to consider the error anything other than CDC provider error and the responsibility of the CDC provider to repay. Accordingly, DHS has not established a basis to recoup or to pursue debt collection against Respondent for the CDC payment.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS failed to establish a basis for recoupment or debt collection actions against Respondent for \$199.22 in CDC benefits paid to Respondent's former CDC provider. It is ordered that DHS:

- (1) cease any recoupment or debt collection actions against Respondent for the CDC payment; and

2010-36652/CG

(2) return any portion of the \$199.22 that has already been recouped from Respondent.

The actions taken by DHS are REVERSED.



Christian Gardocki
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: July 6, 2011

Date Mailed: July 6, 2011

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.

CG/cl

cc:

