

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

IN THE MATTER OF:

[REDACTED]

Registration. No: 2010-40409
Issue No: 4060
Case No: [REDACTED]
Hearing Date: July 6, 2011
St. Joseph County DHS

Administrative Law Judge: Mark A. Meyer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge in accordance with 7 CFR 273.18, 45 CFR 233.20(a)(13), MCL 400.9, MCL 400.37, MCL 400.43(a), MCL 24.201, *et seq.*, and 1999 AC, R 400.941, upon a hearing request by the Department of Human Services (the Department) to establish a debt based on a claimed overissuance of benefits to Respondent. Following due notice mailed to Respondent, a hearing was held on July 6 2011. Respondent failed to appear.¹ The Department of Human Services (the Department) was represented by agency personnel.

ISSUE

In dispute was whether Respondent received an overissuance of Child Development and Care (CDC) benefits, which entitled the Department to recoupment.

FINDINGS OF FACT

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

1. At all times relevant to this matter, Respondent was receiving CDC benefits for her children. (Department's Exhibits D-2; D-3; D-5.)
2. From October 26, 2008, through August 15, 2009, the Department authorized Respondent to receive 90 hours of CDC benefits per pay period. (Department's Exhibit D-2.)

¹ Nothing in the record indicated that the notice of hearing in this matter was returned to the Department of Human Services (the Department), or to the Michigan Administrative Hearing System, by the United States Postal Service as undeliverable. The hearing thus proceeded in Claimant's absence. See Bridges Administrative Manual (BAM) 725, p. 17.

3. The addition of the children's father to the home, and his ability to provide care for them, resulted in the Department reducing the amount of Respondent's CDC benefits. Beginning September 13, 2009, Respondent was authorized to receive 50 hours of CDC benefits per pay period. (Department's hearing summary, dated March 15, 2010; Department's Exhibit D-3.)
4. The Department claimed, however, that it continued paying CDC benefits at the 90 hours per pay period rate. (Department's hearing summary; Department's Exhibit D-1.)
5. On November 25, 2009, the Department notified Respondent that, due to an agency error, she was overissued CDC benefits for the period September 13, 2009, through September 26, 2009 (the period in dispute), in the amount of [REDACTED]. The Department's overissuance summary stated that the agency paid Respondent's child care provider CDC benefits totaling [REDACTED] for this period, but that she was only eligible for [REDACTED] (Department's Exhibit D-1.)
6. From the Department's notice of overissuance, Respondent filed a request for hearing. (Respondent's hearing request, dated December 14, 2009.)
7. The Department's benefit summary inquiry for Respondent detailed four entries for CDC benefits for the time period in dispute: [REDACTED], [REDACTED], which total [REDACTED]. The entries for the [REDACTED], and [REDACTED] amounts, totaling [REDACTED], were listed as "paid." The [REDACTED] entry, however, was noted as "stopped" (Department's Exhibit D-5.)

CONCLUSIONS OF LAW

The CDC program was established under Titles IVA, IVE, and XX of the Social Security Act, 42 USC 301, *et seq.*, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193 (1996). The program is implemented under Title 45 of the Code of Federal Regulations, Parts 98 and 99. In accordance with this authority, the Department administers the program and provides services to adults and children under MCL 400.14(1) and Rules 400.5001 through 5015. Department policies pertaining to the CDC program are found in the Bridges Administrative Manual (BAM), Bridges Eligibility Manual (BEM), and Reference Tables (RFT). The goal of the CDC program is to preserve the family unit and to promote its economic independence and self-sufficiency

by promoting safe, affordable, accessible, quality child care for qualified Michigan families. BAM 703, p. 1.²

Clients receiving CDC benefits are responsible for reporting changes in circumstances that have the potential for affecting eligibility or benefit amount. BAM 105, p. 7. Respondent did so here, but the Department nonetheless asserted that, due to an agency error, it paid CDC benefits during the period in dispute in excess of those she was authorized to receive.

An overissuance is the amount of benefits issued to a client in excess of what he or she was entitled to receive. BAM 700, p. 1. When this occurs, the Department must attempt to recoup the overissuance. BAM 700, p. 1.

There are agency errors and client errors that result in overissuances. An agency error occurs when incorrect action is taken by the Department. BAM 700, p. 3; BAM 705, p. 1. A client error occurs when the client received more benefits than he or she was entitled to because the client provided incorrect or incomplete information to the Department. BAM 700, p. 5. The threshold for pursuing recoupment of an overissuance, whether the result of Department or client error, is currently [REDACTED] or more. BAM 700, pp. 4, 7; BAM 705, p. 1. However, at the time of the claimed overissuance in dispute, the threshold for an agency error involving CDC benefits was [REDACTED].³

Generally, when a client is currently in an active CDC benefits case, the Department will seek to recoup the determined overissuance from those benefits. In those situations, it is the client who must file a timely request for hearing to contest the recoupment action. BAM 705, p. 9. But, when an overissuance is determined and the client is not currently within an active benefits case, the Department must request a hearing to establish the outstanding debt. See BAM 705, p. 9. The agency did so here.

Overissuances on active programs are repaid by:

- Lump sum cash payments.
- Monthly cash payments (when court ordered).
- Administrative recoupment (benefit reduction).

[BAM 725, p. 4.]

Overissuance balances on inactive cases must be repaid by lump sum or monthly cash payments unless collection is suspended. BAM 725, p. 7.

Repayment of an overissuance is the responsibility of:

² Policy citations are to Department policy in effect at the time of the benefit overissuance in dispute.

³ See the version of BAM 700, p. 4, effective January 1, 2009; BAM 705, p. 1, effective April 1, 2009.

- Anyone who was an eligible, disqualified, or other adult in the program group at the time the overissuance occurred.
- A Food Assistance Program (FAP) authorized representative if they had any part in creating the FAP overissuance.

BAM 725, p. 1.

Here, according to the agency, Respondent was only entitled to receive [REDACTED] in CDC benefits for the period in dispute – September 13, 2009, through September 26, 2009. The Department claimed that it actually paid [REDACTED] to Respondent's child care provider during this time period. But, the Department's attempt to establish a debt, in the amount of [REDACTED], is without sufficient evidentiary support.

Evidence made available by the agency in this matter established that it only paid [REDACTED] to Respondent's child care provider during the time period in dispute ([REDACTED]). (See Department's Exhibit D-5.) According to the same evidence, however, a [REDACTED] CDC payment included in the Department's calculation of overissuance was "stopped." (See Department's Exhibit D-5. Emphasis added.) Although provided the opportunity to explain whether or not this particular payment was actually submitted to Respondent's child care provider, the agency failed to do so. It can only be reasonably concluded, then, that this [REDACTED] amount was never issued to the provider and should not have been included in the Department's overissuance calculation. As such, no overissuance was demonstrated in this matter.⁴

DECISION AND ORDER

Based on the above findings of fact and conclusions of law, the Administrative Law Judge decides that the Department failed to sufficiently establish an overissuance of CDC benefits to Respondent during the period September 13, 2009, through September 26, 2009.

Therefore, the Department is not entitled to recoup any amount of CDC benefits paid to Respondent's child care provider during that time period.

⁴ Even if the Department had sufficiently demonstrated an overissuance of [REDACTED] in this matter, the threshold for pursuing debt establishment during the time period in dispute was [REDACTED].

It is SO ORDERED.

/s/ _____
Mark A. Meyer
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 8/2/11

Date Mailed: 8/2/11

NOTICE: Respondent may appeal this decision and order within 60 days of the above mailing date. The appeal may be made to the circuit court for the county in which Respondent resides or has his or her principal place of business in this State, or in the circuit court for Ingham County. Administrative Hearings, on its own motion, or on request of a party within 60 days of the above mailing date, may order a rehearing.

MAM/sc

cc:

