

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 201042757

Issue No: 6052

[REDACTED]

[REDACTED]

Hearing Date:

August 25, 2010

Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

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 (department) request for a disqualification hearing. After due notice, a hearing was held on August 25, 2010. Respondent did not appear. In accordance with Program Administrative Manual (PAM) 720 the hearing proceeds without Respondent.

ISSUE

Whether respondent committed an Intentional Program Violation (IPV) and whether respondent received 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 an ongoing recipient of Child Development and Care (CDC) benefits using work as the need reason.
2. In May 2001 Respondent stopped receiving earned income through [REDACTED].
3. Between June 3, 2001 and August 11, 2001 Child Development and Care (CDC) benefits were paid for four of Respondent's six children.

4. On August 27, 2001 a Day Care Aide application was submitted under Respondent case. The application was for [REDACTED] and showed that care began on [REDACTED] for four of Respondent's six children.
5. Between August 26, 2001 and April 20, 2002 Child Development and Care (CDC) benefits were paid for four of Respondent's six children.
6. On March 30, 2002 Respondent submitted an application for Child Development and Care (CDC) benefits. Respondent wrote on the application that she was employed through [REDACTED].

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 Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Program Reference Manual (PRM).

In this case, the department has requested a hearing to establish an overissuance of benefits as a result of an IPV. The department's manuals provide the following relevant policy statements and instructions for department caseworkers:

PAM 720 INTENTIONAL PROGRAM VIOLATION

DEPARTMENT POLICY

All Programs

Recoupment policies and procedures vary by program and overissuance (OI) type. This item explains Intentional Program Violation (IPV) processing and establishment.

PAM 700 explains OI discovery, OI types and standards of promptness.

PAM 705 explains agency error and PAM 715 explains client error.

DEFINITIONS

All Programs

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.

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.

FAP Only

IPV is suspected for a client who is alleged to have trafficked FAP benefits.

IPV

FIP, SDA and FAP

The client/authorized representative (AR) is determined to have committed an IPV by:

- A court decision.
- An administrative hearing decision.
- The client signing a DHS-826, Request for Waiver of Disqualification Hearing or DHS-830, Disqualification Consent Agreement or other recoupment and disqualification agreement forms.

MA and CDC Only

IPV exists when the client/AR or CDC provider:

- Is found guilty by a court, **or**
- Signs a DHS-4350 **and** the prosecutor or the office of inspector general (OIG), authorizes recoupment in lieu of prosecution, **or**
- Is found responsible for the IPV by an administrative law judge conducting an IPV or debt establishment hearing.

Clear and convincing evidence is evidence that “produce[s] in the mind of the trier of fact a firm belief or conviction as to the truth of the allegations sought to be established, evidence so clear, direct, and weighty and convincing as to enable [the fact finder] to come to a clear conviction, without hesitancy, of the truth of the precise facts in issue.” *In re Martin*, 450 Mich 204, 227; 538 NW2d 399 (1995), quoting *In re Jobes*, 108 NJ 394, 407-408; 529 A2d 434 (1987).

In this case Respondent was receiving CDC benefits for her children in order to work, when she was not working. Respondent reported was using a Day Care Aide which allowed her (Respondent) to bill the child care hours and then receive payment of the benefits directly. Respondent intentionally failed to report the end of her employment in order to continue receiving the CDC benefits. Respondent also submitted a fraudulent application on March 30, 2002, stating she was working for Power Staffing when she was not.

DECISION AND ORDER

The Administrative Law Judge, based upon the clear and convincing evidence, decides the following:

Respondent, [REDACTED], committed an intentional program violation by intentionally failing to report the end of her employment in May 2001. Respondent failed to report the end of her employment and filled a fraudulent application on March 30, 2002 in order to obtain Child Development and Care (CDC) benefits she was not eligible for.

Respondent's intentional program violation caused an over-issuance of [REDACTED] in Child Development and Care (CDC) benefits which the Department is entitled to recoup.

Gary F. Heisler
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: _____

Date Mailed: _____

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.

GFH/vc

cc:

[REDACTED]