

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

IN THE MATTER OF:



Reg. No: 201046695
Issue No: 6052
Case No: [REDACTED]
Hearing Date: September 7, 2011
St. Clair County DHS

ADMINISTRATIVE LAW JUDGE: Christopher S. Saunders

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Department of Human Services (department) request for a disqualification hearing. After due notice, a telephone hearing was held on September 7, 2011, at which Respondent appeared and provided testimony.

ISSUE

Whether Respondent committed an Intentional Program Violation (IPV) of the Child Care and Development (CDC) program?

FINDINGS OF FACT

The Administrative Law Judge, based upon the clear and convincing evidence on the whole record, finds as 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 Intentional Program Violation (IPV).
2. Respondent completed an application for public assistance on May 9, 2007 (DHS 1171), requesting child development and care services for her grandson, whom she had been appointed a limited guardian for and acknowledged her responsibility to report any changes in her situation to the department within ten days. (Department Exhibits 11-14).
3. Respondent was approved for CDC benefits and was informed via letter on June 5, 2007 that her CDC benefits were only to be used for work, school/training, or social/health reasons and only if the activity was approved by the department. (Department Exhibit 16).

4. Respondent's grandson attended day care every weekday with the exception of holidays and October 17, 2007 from August 8, 2007 through February 24, 2008. (Department Exhibits 27-56).
5. During the above-mentioned period, Respondent's grandson attended day care during times Respondent was not at work, school, or any other activity that she was otherwise authorized by the department to use day care for. (Department Exhibits 17-18, 22-26).
6. Respondent's day care provider submitted invoices to the department for the all days the Respondent's grandson was there and said bills were paid by the department. (Department Exhibit 19).
7. As a result of the department paying invoices for time the Respondent's grandson spent in day care while she was not participating in any approved activity, the Respondent received an over issuance of CDC benefits in the amount of [REDACTED] for the period of August 5, 2007 though March 29, 2008. (Department Exhibits 20-21).
7. Respondent has no apparent physical or mental impairment that would limit the understanding or ability to fulfill the reporting responsibilities.
8. Respondent had not committed any previous intentional program violations. (Department Hearing Request).

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

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

When a customer client group receives more benefits than they are entitled to receive, the department must attempt to recoup the over issuance. BAM 700. A suspected intentional program violation means an over issuance where:

- 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.

The department suspects an intentional program violation when the client has intentionally withheld or misrepresented information for the purpose of establishing, maintaining, increasing, or preventing reduction of program benefits or eligibility. There must be clear and convincing evidence that the client acted intentionally for this purpose. BAM 720.

The department's Office of Inspector General processes intentional program hearings for over issuances referred to them for investigation. The Office of Inspector General represents the department during the hearing process. The Office of Inspector General requests intentional program hearings for cases when:

- benefit over issuances are not forwarded to the prosecutor.
- prosecution of welfare fraud is declined by the prosecutor for a reason other than lack of evidence, and
 - the total over issuance amount is \$1000 or more, or
 - the total over issuance amount is less than \$1000, and
 - the group has a previous intentional program violation, or
 - the alleged IPV involves FAP trafficking, or
 - the alleged fraud involves concurrent receipt of assistance,
 - the alleged fraud is committed by a state/government employee.

A court or hearing decision that finds a client committed an intentional program violation disqualifies that client from receiving program benefits. A disqualified recipient remains a member of an active group as long as he lives with them. Other eligible group members may continue to receive benefits. BAM 720.

In the case at hand, the hours submitted on behalf of the Respondent for child care exceeded the number of verified hours the Respondent was working, attending school, or participating in department approved activities. The Respondent testified that she sent her grandson to day care on a regular basis in an attempt to provide him some stability after several traumatic experiences. This Administrative Law Judge finds that the Respondent did have the best intentions for her grandson in mind, and in all probability probably did the right thing by trying to provide some stability.

However, policy is clear as to what CDC may be approved for, and the Respondent did not attempt to have the days of day care when she was not working, training, or otherwise participating in any approved activities approved by the department. Therefore, it cannot be said that the hours in question used by the Respondent were needed in accordance with the policy definition of need. Because the hours submitted were in excess of the Respondent's need, this Administrative Law Judge finds that the Respondent committed an Intention Program Violation of the CDC program which resulted in an over issuance of CDC benefits for the period of August 5, 2007 through March 29, 2008 in the amount of [REDACTED].

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds clear and convincing evidence that the Respondent committed an Intentional Program Violation.

It is HEREBY ORDERED that the Respondent shall reimburse the department for CDC benefits ineligibly received in the amount of [REDACTED].

/s/

Christopher S. Saunders
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: September 15, 2011

Date Mailed: September 16, 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.

CSS/cr

cc:

[REDACTED]