

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: 201051078
Issue No: 6015
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 21, 2010
Grand Traverse County DHS

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

This matter is before the undersigned Administrative Law Judge by authority of MCL 400.9 and MCL 400.37. Claimant's request for a hearing was received on August 9, 2010. After due notice, a telephone hearing was held on Thursday, October 21, 2010.

ISSUE

Whether the Department of Human Services (Department) properly determined that the Claimant received an overissuance of Child Development and Care (CDC) benefits?

FINDINGS OF FACT

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

1. The Claimant was an ongoing CDC recipient from January 8, 2006, through December 23, 2006. The Claimant received CDC benefits totaling [REDACTED] during this period.
2. On December 13, 2006, the Department sent the Claimant notice that she was considered to be in cooperation with the Office of Child Support after having previously failing to cooperate with respect to three of her children, [REDACTED] and [REDACTED].
3. On January 11, 2007, the Department sent the Claimant notice that she was considered to be in cooperation with the Office of Child Support after having previously failing to cooperate with respect to the child [REDACTED].

4. The Office of Child Support reported that it has no record of the Claimant's child [REDACTED] that extends prior to the notice of cooperation sent on January 11, 2007, and that a file for the Claimant with respect to [REDACTED] was created on that same date.
5. On August 3, 2010, the Department sent the Claimant notice that she had received an overissuance of CDC benefit to taling [REDACTED] due to client error, after determining that she had not been eligible to receive CDC benefits.

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 M AC 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).

An overissuance is the amount of benefits issued to the client group in excess of what they were eligible to receive. BAM 705. The amount of the overissuance is the amount of benefits the group actually received minus the amount the group was eligible to receive. BAM 720. When a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the overissuance. BAM 700.

Department errors are caused by incorrect actions by the Department. BAM 705. Department error overissuances are not pursued if the estimated overissuance is less than \$ [REDACTED] per program. BAM 700. Client errors occur when the customer gave incorrect or incomplete information to the Department. Client errors are not established if the overissuance is less than \$ [REDACTED] unless the client group is active for the overissuance program, or the overissuance is a result of a quality control audit finding. BAM 700.

Families are strengthened when children's needs are met. Parents have a responsibility to meet their children's needs by providing support and/or cooperating with the department including the Office of Child Support (OCS), the Friend of the Court (FOC) and the prosecuting attorney to establish paternity and/or obtain support from an absent parent. BEM 255.

The head of household and the parent of children must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom they receive assistance, unless a claim of good cause for not cooperating has been granted or is pending. BEM 255

Failure to cooperate without good cause results in ineligibility for CDC. Bridges will close or deny the CDC EDG when a child support non-cooperation record exists and there is no corresponding comply date. BEM 255.

The Department has the burden of proving that its actions were a proper application of its policies. The Department had a duty to present the following:

- An explanation of the action(s) taken.
- A summary of the policy or laws used to determine that the action taken was correct.
- Any clarifications by central office staff of the policy or laws used.
- The facts which led to the conclusion that the policy is relevant to the disputed case action.
- The DHS procedures ensuring that the client received adequate or timely notice of the proposed action and affording all other rights. BAM 600.

Cooperation with the Department's Office of Child Support is a mandatory qualification to receive benefits under the Child Development and Care (CDC) program. When the Department issues CDC benefits to a client that should not have been approved to participate in the program due to noncompliance with the Office of Child Support, this is considered a department error overissuance of benefits. Clients are responsible to repay benefits issued due to department error as outlined in the Department's policies (BAM 700).

However, clients have the right to contest a department decision affecting eligibility or benefit levels whenever they believe the decision is incorrect. BAM 600. The Department has burden of proving that its actions are correct. In this case, there was no testimony by witnesses with personal knowledge of the Claimant's failure to cooperate with the Office of Child Support. Furthermore, insufficient evidence was submitted to establish that the Claimant had failed to cooperate with the Office of Child Support.

Therefore, the Department has not established that the Claimant failed to cooperate with the Office of Child Support, or that the Department is entitled to recoup an alleged overissuance of CDC benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department has failed to establish that Claimant received an overissuance of benefits under the Child Development and Care (CDC) program.

Accordingly, the Department's CDC eligibility determination is REVERSED. It is further ORDERED that the Department shall:

1. Initiate a determination of whether the Claimant cooperated with the Office of Child Support before December 13, 2006.
2. Provide the Claimant with written notification of the Department's findings concerning cooperation with the Office of Child Support.
3. Remove the CDC overissuance from the Claimant's file.

____/s/

Kevin

Scully
Administrative Law Judge
for Duane Berger, Director
Department of Human Services

Date Signed: January 14, 2011

Date Mailed: January 19, 2011

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 60 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.

KS/alc

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