

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

IN THE MATTER OF:



Reg. No: 201054294
Issue No: 6052
Case No: [REDACTED]
Hearing Date: July 6, 2011
Genesee 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 July 6, 2011. Respondent appeared and testified at the hearing.

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 over issuance 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 February 28, 2005 (DHS 1171), acknowledging her responsibility to report any changes in her income or resources to the department within ten days of the change. (Department Exhibit 7-13).
3. Respondent submitted an application for CDC benefits on April 4, 2005. (Department Exhibit 15-17).
4. Respondent was employed at [REDACTED] from April 12, 2005 through July 19, 2005. (Department Exhibit 19-21).

5. Respondent was unemployed until she subsequently became employed at [REDACTED] on October 11, 2005. (Department Exhibit 22-23).
6. When she was between jobs, the Respondent failed to notify the department that she was unemployed and no longer in need of child care.
7. Respondent was not related to or residing with the individual she used for child care during the period of over issuance.
8. CDC benefit payments were made to the child care provider, not to the Respondent.
9. After the Respondent was no longer employed with [REDACTED], she immediately removed her child from the child care facility and informed the provider that she would no longer be requiring the child care services.
10. The department continued to provide CDC benefits after the child was no longer attending child care.
11. During the period in question, the department provided benefits in the amount of [REDACTED] for which the Respondent was ineligible.
12. Respondent has no apparent physical or mental impairment that would limit the understanding or ability to fulfill the income reporting responsibilities.
13. 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 disqualification hearing to establish an over issuance of benefits as a result of an IPV and the department has asked that the respondent be disqualified from receiving benefits. 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 Respondent failed to notify the department after she was no longer employed at [REDACTED], that her child would not be attending child care, and that her CDC benefits would no longer be needed. However, the OIG testified that child care providers are required to submit verification of children's attendance to the department. As benefits were still paid for Respondent's child, it is clear that verification of attendance was still submitted to the department. Department policy indicates that the child care **providers** must submit bi-weekly billing to the department for payment BEM 706. The alleged period of over issuance covers July 19, 2005 through October 11, 2005, it is therefore clear that the provider continued to submit bills to the department after child was no longer attending the child care. The OIG further testified that he felt that the child care provider did have some culpability in the over issuance of benefits.

Department policy states that in order for a respondent to have committed an IPV, the individual must have **intentionally** withheld or misrepresented information **for the purpose of establishing, maintaining, increasing, or preventing reduction of program benefits or eligibility** BAM 720 (emphasis added). Here, the Respondent testified that she was not related to the child care provider and that she did not reside with the child care provider. There was no evidence presented that the Respondent and the child care provider had anything more than a business relationship for the purposes of child care. During the alleged period of over issuance, the Respondent did not receive payment from the department nor did she receive the benefit of child care as her child was no longer attending. Therefore, there is no evidence that the Respondent received any benefit as a result of her failure to inform the department of the cessation of her need for child care benefits.

The Administrative Law Judge, therefore finds that there is not clear and convincing evidence that the Respondent intentionally withheld or misrepresented information for the purpose of establishing, maintaining, increasing or preventing the reduction of program benefits or eligibility. The Respondent, therefore, has not committed an intentional program violation.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the department has not established by clear and convincing evidence that the Respondent committed an Intentional Program Violation of the CDC program.

Accordingly, this matter is hereby **DISMISSED**.

/s/

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

Date Signed: July 14, 2011

Date Mailed: July 15, 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

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