

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 201011304
Issue No: 3055
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
June 2, 2010
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Morris

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 June 2, 2010.

ISSUE

Whether Respondent committed an Intentional Program Violation (IPV) of the Child Care and Development (CDC) program 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. 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); the OIG also requested that Respondent be disqualified from receiving program benefits.
2. Respondent signed Assistance Application (DHS-1171) on August 6, 2003, acknowledging that she understood her failure to give timely, truthful, complete and accurate information about her circumstances could result in a civil or criminal action or an administrative claim against her. (Department Exhibit 18-25).

3. Respondent submitted an unsigned Verification of Employment from [REDACTED] on October 7, 2003, showing she was working 40 hours a week. On April 28, the department, in response to a subpoena, received information from [REDACTED] that Respondent had not been employed there. (Department Exhibits 9, 13-15, 37).
4. On March 6, 2005, a Verification of Employment was received by the department showing Respondent was employed at [REDACTED] from October 2, 2003 to December 24, 2003. Respondent did not report this employment to the department. (Department Exhibits 11-13).
5. Respondent received \$19,522.00 in CDC benefits during the alleged fraud period of September 21, 2003 through September 18, 2004. If the income/hours had been properly reported and budgeted by the department, Respondent would only have been eligible to receive \$ [REDACTED] in CDC benefits. (Department Exhibit 5, 33-40).
6. Respondent submitted a false Verification of Employment form from [REDACTED] showing she was working 40 hours a week and she failed to report her income at [REDACTED] in a timely manner, resulting in a CDC overissuance for the months of September, 2003 through September, 2004, in the amount of \$ [REDACTED] (Department Exhibits 11-13, 37-40).
7. Respondent was clearly instructed and fully aware of the responsibility to report all employment and income to the department.
8. Respondent has no apparent physical or mental impairment that would limit the understanding or ability to fulfill the income reporting responsibilities.
9. Respondent had not committed any previous intentional program violations of the CDC program. (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).

The department has requested a disqualification hearing to establish an overissuance 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 overissuance. BAM 700. A suspected intentional program violation means an overissuance 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 overissuances 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 overissuances 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 overissuance amount is \$1000 or more, or
 - the total overissuance 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.

Clients that commit an intentional program violation are disqualified for a standard disqualification period except when a court orders a different period. Clients are disqualified for periods of one year for the first IPV, two years for the second IPV, lifetime disqualification for the third IPV, and ten years for a concurrent receipt of benefits. BAM 720. This is the respondent's first intentional program violation.

In this case, the department has established that Respondent was aware of the responsibility to report all income and employment to the department. Department policy requires clients to report any change in circumstances that will affect eligibility or benefit amount within ten days. BAM, Item 105, p. 7. Respondent has no apparent physical or mental impairment that limits the understanding or ability to fulfill the reporting responsibilities. Respondent completed an application for assistance on August 6, 2003. Respondent submitted an unsigned Verification of Employment from [REDACTED] on October 7, 2003.

A Verification of Employment received by the department from [REDACTED] shows that Respondent was never employed at [REDACTED]. A Verification of Employment received by the department from [REDACTED] shows that Respondent was employed from October 2, 2003 to December 24, 2003. Respondent continued to have 40 hours of earnings budgeted into her case from her submission of a fraudulent Verification of Employment from [REDACTED] where she was never employed. This allowed her to receive CDC benefits for hours that she was not working. The notices generated to Respondent would have shown earned income was being budgeted from [REDACTED] where she had never worked, and no income from [REDACTED] when she was employed there, and should have alerted Respondent that she had not reported her proper income and hours.

This Administrative Law Judge therefore concludes that the department has shown, by clear and convincing evidence, that Respondent committed a first intentional violation of the CDC program, resulting in a \$ [REDACTED] overissuance from September 2003 through September, 2004. Consequently, the department's request for CDC program disqualification and full restitution must be granted.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Respondent committed an Intentional Program Violation by reporting she was employed at [REDACTED] when she was not, and by failing to report

that she was working at [REDACTED] while receiving CDC benefits for the period of time from September 2003 through September, 2004.

Therefore, the department is entitled to recoup the overissuance of benefits Respondent ineligibly received. Respondent is ORDERED to reimburse the department for the \$ [REDACTED] CDC overissuance caused by her intentional program violation.

It is SO ORDERED.

/s/

Suzanne L. Morris
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: January 11, 2011

Date Mailed: January 11, 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.

SLM/alc

cc: [REDACTED]