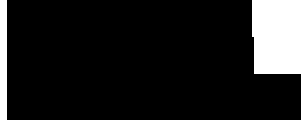


STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 201013693
Issue No: 6019
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 21, 2010
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Robert J. Chavez

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon claimant's request for a hearing. After due notice, a hearing was held on October 21, 2010.

ISSUE

Was the claimant properly determined to have an over-issuance in the CDC program?

FINDINGS OF FACT

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

- (1) Claimant is CDC recipient in Wayne County.
- (2) Claimant was not paid for hours of work in September and October 2009.
- (3) Because of this, the Department decided that claimant was ineligible to receive CDC payments for that period of time.

- (4) DHS determined that claimant had an overpayment of \$425 and initiated recoupment.
- (5) On November 20, 2009, claimant requested a hearing, alleging that she should not have to pay the money back because she had worked the hours in question.
- (6) On October 21, 2010, a hearing was held before the Administrative Law Judge.
- (7) While the Department submitted evidence showing the amount of CDC benefits claimant received during the period in question, the Department never submitted any evidence to show the amount of the recoupment, the amount of benefits claimant should have received, nor any evidence that showed how the recoupment amount was calculated.

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 Bridges Reference Manual (BRM).

Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105.

A client/CDC provider error over-issuance (OI) occurs when the client received more benefits than they were entitled to because the client/CDC provider gave incorrect or incomplete information to the department. BAM 715. This includes failing to report a change. An agency error OI is caused by incorrect actions (including delayed or no action) by DHS or department processes. BAM 705. When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the over-issuance. BAM 700.

Agency error OI's are not pursued if the estimated OI amount is less than \$500 per program. BAM 700.

In the current case, the Department contends that the claimant did not work the hours in question and was not entitled to CDC benefits during the time period in question, and must have the benefits she was awarded recouped.

Claimant argues that she did work the time in question, but was not paid for it—illegally—and therefore needed the CDC.

While the circumstances make an interesting legal question, the undersigned sees no need to address the issue—the Department has not submitted evidence that shows that the claimant received more benefits than she was entitled to, or evidence that shows how the recoupment amount was determined. In fact, absent prompting from the Administrative Law Judge, the Department would have failed to state a recoupment amount.

While the Department has submitted satisfactory evidence that show the amount of benefits the claimant was paid during the time period in question, they have failed to submit evidence showing the amount of benefits the claimant should have been paid—

assuming their action was correct in the first place—and the Department failed to submit budgets or evidence showing that the difference between those amounts would result in an over-issuance.

Furthermore, the Department has failed to present any evidence as to the recoupment amount; had the Administrative Law Judge not asked during the hearing, he would still be in the dark as to the recoupment amount—the amount is nowhere to be found in the documentary evidence. Therefore, the Department has not met their burden of proof in showing that the claimant was over-issued CDC benefits. The Department was under the responsibility to show the Administrative Law Judge that the claimant should have received a different, lower, amount of CDC benefits during the time period in question; they did not.

Therefore, as there is no evidence showing that the claimant was over-issued benefits, the undersigned must hold that the claimant was not over-issued benefits, and therefore, recoupment must be denied.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the Department has not satisfactorily shown that the claimant was the recipient of an over-issuance of CDC benefits. Therefore, the Department's decision to initiate recoupment of claimant's alleged CDC over-issuance was incorrect.

Accordingly, the Department's decision in the above stated matter is, hereby, **REVERSED**.

Recoupment of CDC benefits is **DENIED**.

The Department is ORDERED to supplement to the claimant any CDC benefits already recouped as a result of the above stated matter.



Robert J. Chavez
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: 10/25/10

Date Mailed: 10/25/10

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 90 days of the filing of the original request.

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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.

RJC/dj

cc:

