

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

IN THE MATTER OF:

[REDACTED]

Kalamazoo, MI 49001

[REDACTED]

Kalamazoo County DHS

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to 7 CFR 273.18; 45 CFR 233.20(a)(13); MCL 400.9; MCL 400.37; MCL 400.43(a); MAC R 400.941 and MCL 24.201, *et seq.*, upon a hearing request by the Department of Human Services (Department) to establish an overissuance of benefits to Respondent. After due notice was mailed to Respondent, a hearing was held on September 8, 2011. Respondent personally appeared and provided testimony.

ISSUE

Whether Respondent received an overissuance of Child Development and Care (CDC) benefits that the department is entitled to recoup?

FINDINGS OF FACT

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

1. Respondent was receiving CDC benefits at all times pertinent to this hearing.
2. At all relevant times, Respondent was employed at Walmart.
3. On November 4, 2009, the Department mailed Respondent a Notice of Overissuance (DHS-4358-A) alleging an overissuance of CDC benefits in the amount of [REDACTED] from April 26, 2009 through June 6, 2009. (Department Exhibit 2)
4. According the Department's Overissuance Summary (DHS-4258-C), due to an agency error Respondent received [REDACTED] in CDC benefits from April 26, 2009 through May 9, 2009, [REDACTED] from May 10, 2009 through May 23, 2009 and [REDACTED] from May 24, 2009 through June 6, 2009. The

DHS-4258-C indicates that Respondent was not eligible for CDC benefits during these time periods. (Department Exhibit 3).

5. Respondent submitted a hearing request on November 16, 2009. (Request for a Hearing).
6. The Department's hearing packet did not contain any budget sheets or other documents that would establish an overissuance or why an alleged overissuance should be recouped.

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).

Department policy states that when a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the overissuance (OI). BAM, Item 700, p. 1. OIs are caused by either department error or by client error. For all programs, a department error OI is caused by incorrect action (including delayed or no action) by DHS staff or department processes. BAM 700. For all programs, a client error OI occurs when the client received more benefits than they were entitled to because the client gave incorrect or incomplete information to the department. BAM 700. For CDC, department error OIs are not pursued if the estimated OI amount is less than \$125 per program. BAM 700. Client error OIs are not established if the OI amount is less than \$125, unless (1) the client or provider is active for the OI program or (2) the OI is a result of a Quality Control (QC) audit finding. BAM 700, p. 7.

The amount of benefits received in an OI calculation includes: regular warrants, supplemental warrants, duplicate warrants, vendor payments, administrative recoupment deductions, EBT cash issuances, EFT payments and replacement warrants (use for the month of the original warrant) but does not include warrants that have not been cashed or escheated EBT cash benefits (SDA only). See BAM 700 and BAM 705, p. 5.

When determining budgetable income for CDC, the following policies apply. If improper budgeting of income caused the OI, the department will use actual income for the past OI month for that income source. BAM 700. Income received weekly or every other week will be converted to a monthly amount. BAM 700. Any income properly budgeted in the issuance budget remains the same in that month's corrected budget. BAM 700.

In this case, the department is requesting recoupment for an alleged CDC overissuance in the amount of [REDACTED] for the period of April 26, 2009 through June 6, 2009. The

department asserts that a department caseworker, during a semiannual review, discover that Respondent had gross earned income in the amount of [REDACTED] (April 24, 2009), [REDACTED] (April 10, 2009) and [REDACTED] (March 27, 2009). The department contends that Respondent earned increased wages during April, 2009 through June, 2009. However, the department did not produce documentation in the hearing packet to establish the amount of CDC benefits calculated by the department during the period of time in question. The department did not produce budget sheets nor did the department offer exhibits which established the department's income calculations during the alleged OI period. The department asserts that Respondent was not eligible for CDC during the relevant time period but that due to a department error, Respondent was issued CDC benefits in error. The total OI alleged by the department is [REDACTED].

The Administrative Law Judge determines the facts based only on evidence introduced at the hearing, draws a conclusion of law, and determines whether DHS policy was appropriately applied. The ALJ issues a final decision unless the ALJ believes that the applicable law does not support DHS policy or DHS policy is silent on the issue being considered. BAM 600. In that case, the ALJ recommends a decision and the policy hearing authority makes the final decision. BAM 600.

This Administrative Law Judge finds that the evidence presented by the department is insufficient to show that an overissuance of CDC occurred. The recoupment specialist who attended the hearing for the department testified that some important documents were missing from the file. Omitted from the file was the income budget sheets, documents that establish Respondent's total earned income during the time period in question and the income limits for CDC during the relevant time period. When Respondent raised questions about the alleged OI during the hearing, the recoupment specialist was unable to answer them. During the hearing, the recoupment specialist was unable to clearly and succinctly articulate how the OI occurred.

Accordingly, this Administrative Law Judge finds that the department has failed to carry its burden of proof and did not provide the information necessary to enable this ALJ to determine whether the department has established an OI in the amount of [REDACTED] pursuant to policy as required under BAM 600.

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 carry its burden to show that Respondent received an overissuance of CDC benefits for the period of April 26, 2009 through June 6, 2009 that the department is entitled to recoup.

The department is therefore not entitled to recoup FIP overissuance of [REDACTED] from Respondent.

It is SO ORDERED.

/s/
C. Adam Purnell
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 9/22/11

Date Mailed: 9/22/11

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.

CAP/ds

■ [REDACTED]