

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES

ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF: [REDACTED],
Claimant

Reg. No: 2010-30425
Issue No: 6019
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
October 19, 2010
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Ivona Rairigh

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 telephone hearing was held on October 19, 2010. Claimant personally appeared and testified.

ISSUE

Did the department correctly conclude that the Child Development and Care (CDC) program benefits received by the claimant were subject to recoupment action?

FINDINGS OF FACT

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

1. Department submitted a Hearing Summary stating "Client reported that she was working and receiving unemployment benefits which cause her to be ineligible for the Child Day Care Program". No other documents were provided for this hearing.

2. Claimant's hearing request is on a DHS-4358-D, Hearing Request for Overissuance or Recoupment Action. The forms states "This request is regarding the overissuance for the period of 09/13/2009 to 12/19/2009".

3. Claimant wrote in her hearing request that the action for overissuance is wrong, and that there has been an error in the DHS system. Claimant also stated the same in the hearing.

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 Program Reference Manual (RFT).

Department apparently determined that the claimant received an overissuance of CDC benefits. Department's representative testified that the claimant's case record is now in Macomb County, that she only received the notice of this hearing today when the claimant came to the office to participate in the hearing, and that she does not have any documentation in her possession to present, as it is in the other county. Representative did obtain some computer printouts showing that the claimant received unemployment benefits in December, 2009 and January, 2010. This would not explain how department determined that the claimant was overissued CDC benefits from September 13, 2009 to December 19, 2009 due to receipt of unemployment benefits, as the Hearing Summary states. Claimant stated that she would only be

laid off from her job perhaps a week at the time, and that she worked otherwise and was in need of CDC benefits.

This Administrative Law Judge has understanding of department's heavy work load. Department's representative also stated that the local Hearing Coordinator position has been filled by several people in the last few months, resulting in hearing notifications not being distributed to caseworkers in a timely manner. However, department has the burden of proof to show any negative action taken or proposed on clients' cases is correct, and to provide any and all pertinent documentation to show the action is correct. In this case department's representative was not even able to state for what period of time the alleged CDC overissuance was for, as she could not locate the claimant's hearing request, form DHS-4358-D. The Administrative Law Judge advised of the alleged overissuance period due to having that form and the Hearing Summary as documentation for the case. Department has therefore failed to meet their burden of proof and the proposed recoupment action cannot go forward.

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 show that the claimant's previously received CDC benefits were subject to recoupment action.

Accordingly, department's action is REVERSED. Department shall:

1. Remove any and all CDC recoupment action entries for the period of September 13, 2009 to December 19, 2009 from department's computer system.
2. Notify the claimant in writing of this action.

SO ORDERED.

/s/ _____
Ivona Rairigh
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: November 3, 2010

Date Mailed: November 4, 2010

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.

IR/tg

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