

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

IN THE MATTER OF:

[REDACTED]

Reg No. 201031225
Issue No. 6052
Case No. [REDACTED]
Load No. [REDACTED]
Hearing Date: October 27, 2010
Saginaw County DHS

ADMINISTRATIVE LAW JUDGE: Jana A. Bachman

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37, 7 CFR 273.16, MAC R 400.3130, and MAC R 400.3178 upon the Department of Human Services' request for an Intentional Program Violation hearing and a Disqualification hearing. After due notice, an in-person hearing was held on October 27, 2010. The department was represented by [REDACTED]

[REDACTED]

Whether respondent committed an Intentional Program Violation (IPV) 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 competent, material and substantial 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 was a recipient of Child Development and Care (CDC) benefits during the period of July 11, 2007 to January 2, 2008. Department Exhibit A-4.
3. Respondent was aware of the responsibility to correctly report all employment and income to the department. Claimant completed, signed, and dated her CDC application to that affect on June 4, 2007. Department Exhibit A-2, pgs 19-21.
4. Respondent has no apparent physical or mental impairment that would limit the understanding or ability to fulfill correct income and employment reporting responsibilities.
5. Respondent did not accurately report employment and income to the department. Claimant reported that she was working and earning wages. She applied for and received day care payments to cover the timeframe when she was allegedly at work. Thorough investigation revealed claimant did not work or have earnings during the timeframe at issue. Department Exhibit A-5, 6, 7, 8, 9, 10, 11, 12, and 13; pgs 32-58.
6. As a result of respondent's failure to accurately report employment and income, respondent committed an IPV and received an overissuance of benefits. During the period July 11, 2007 to January 2, 2008, claimant received ██████████ in CDC benefits to which she was not entitled. Department Exhibit A, pgs 3-58.
7. This was respondent's first IPV.

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 Program Administrative Manual (PAM), the Program Eligibility Manual (PEM) and the Program Reference Manual (PRM).

Suspected Intentional Program Violation (IPV) means an overissuance (OI) exists for which all three of the following conditions exist:

- 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.

IPV is suspected when there is clear and convincing evidence that the client or CDC provider has intentionally withheld or misrepresented information for the purpose of establishing, maintaining, increasing or preventing reduction of program benefits or eligibility. For CDC, an IPV exists when the client/authorized representative or CDC provider:

- Is found guilty by a court or
- Signs a DHS-4350 and the prosecutor of Office of Inspector General (OIG) authorizes recoupment in lieu of prosecution or
- Is found responsible for the IPV by an Administrative Law Judge conducting an IPV or Debt Establishment hearing.

For FIP, SDA, and FAP only, disqualify any active or inactive recipient who:

- Is found by a court of hearing decision to have committed IPV or
- Has signed a DHS-826 or a DHS-830 or
- Is convicted of concurrent receipt of assistance by a court or
- For FAP is found by SOAHR or court to have trafficked FAP benefits.

A disqualified recipient remains a member of an active group as long as he lives with them.

Bridges Administrative Manual (BAM) 715; OBRA 1990, Section 5082, as amended; PL 101-508; 45 CFR Parts 98 and 99; Social Security Act, as amended, Title 4A (42 USC 601 ET.EQ.); Title 4E (42 USC 670 ET.EQ.); Title XX (42 USC 1397 ET.EQ.); R 400.5014; MCL 400.60.

In this case, the department has established through clear and convincing evidence that respondent was aware of the responsibility to correctly report all income employment to the department; that respondent has no apparent physical or mental impairments that limits the understanding or ability to fulfill the reporting responsibilities; and intentionally misreported her circumstances for the purpose of qualifying for assistance. As a result, respondent committed an IPV and received an overissuance of CDC benefits in the amount of [REDACTED] which the department is entitled to recoup.

DECISION AND ORDER

The Administrative Law Judge, based upon the clear and convincing evidence, decides the following: respondent committed an IPV and received [REDACTED] in Child Development and Care benefits to which she was not entitled. The department is to recoup the full amount.

/S/

Jana A. Bachman
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: January 7, 2011

Date Mailed: January 12, 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.

JAB/db

cc:

[REDACTED]