

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

IN THE MATTER OF:



Kalamazoo, MI 49048



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 Assistance (CDC) benefits that the Department is entitled to recoup?

FINDINGS OF FACT

The Administrative Law Judge, based upon 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. Respondent was enrolled in the Jobs, Education & Training/Work First! Programs.
3. Between January, 2007 through March, 2007, Respondent was employed at Taco Bell and was approved for CDC benefits up to 100 (one-hundred) hours each pay period. (Department Exhibits 1 & 2).
4. Respondent stopped participating in Work First! Beginning on January 22, 2007. (Department Exhibit 8).
5. From January 21, 2007 through February 3, 2007, Respondent worked 31 (thirty-one) hours.

6. Between February 4, 2007 and February 17, 2007, Respondent worked 15.5 (fifteen and one-half) hours.
7. Between February 18, 2007 and March 3, 2007, Respondent worked 41 (forty-one) hours.
8. On February 4, 2010, the Office of Inspector General (OIG) prepared an Investigation Disposition Report (DHS-1835) referring the matter to the Recoupment Specialist because after the OIG completed the CDC budget, it was discovered that the overissuance amount ([REDACTED]) was less than the county threshold amount. (Department Exhibit 6).
9. On February 19, 2010, the Department mailed Respondent a Notice of Overissuance (DHS-4358-A), Repayment Agreement, and Overissuance Summary indicating that Respondent received an overissuance of CDC benefits in the amount of [REDACTED] from January 21, 2007 through March 3, 2007. (Department Exhibit 4).
10. Respondent submitted a hearing request on March 2, 2010. (Request for a 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 found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

The Department of Human Services (DHS) may provide a subsidy for child care services for qualifying families when the parent(s)/substitute parent(s) is unavailable to provide the child care because of employment, participation in an approved activity and/or because of a condition for which treatment is being received and care is provided by an eligible provider. BEM 703.

For CDC eligibility to exist for a given child, each parent/substitute parent (P/SP) must demonstrate a valid need reason. This section specifies who must demonstrate those valid need reasons. There are four valid CDC need reasons. Each parent/substitute parent of the child needing care must have a valid need reason during the time child care is requested. Each need reason must be verified and exists only when each parent/substitute parent is unavailable to provide the care because of (1) Family preservation; (2) High school completion; (3) An approved activity or (4) Employment. BEM 703.

CDC eligibility ends based on an approved activity need reason when:

- The client is no longer participating with the MWA or other employment agency.
- The activity is no longer approved.
- The client no longer meets CDC eligibility requirements.
- The need no longer exists. BEM 703.

Department policy states:

BENEFIT OVERISSUANCES

DEPARTMENT POLICY

All Programs

When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the overissuance (OI). This item explains OI types and standard of promptness. BAM, Item 700, p. 1.

OVERISSUANCE TYPES

Department Error

All Programs

A department error OI is caused by incorrect action (including delayed or no action) by DHS staff or department processes. Some examples are:

- . Available information was not used or was used incorrectly
- . Policy was misapplied
- . Action by local or central office staff was delayed
- . Computer or machine errors occurred
- . Information was not shared between department divisions (services staff, Work First agencies, etc.)
- . Data exchange reports were not acted upon timely (Wage Match, New Hires, BENDEX, etc.)

If unable to identify the type of OI, record it as a department error.

FIP, SDA, CDC, and FAP

Department error OIs are not pursued if the estimated OI amount is less than \$125 per program.

Exception: There is no threshold limit on CDC **system** errors. RRS in central office will recoup these types of overissuances.

FIP, SDA and FAP Only

Note: The department error threshold was lowered to \$125 retroactive back to August 1, 2008.

FIP and SDA Only

Treat an OI due to excess assets as a department error **unless** IPV caused it.

CDC Only

CDC department errors and CDC provider department errors must be pursued beginning October 1, 2006. If the CDC department error OI period included the month of October 2006, include the months previous to October 2006 when determining the OI amount.

Note: Department errors will be assigned to the provider or the client depending on the type of department error that occurred. See PAM 705 for examples.

MA, SER and ESS Only

Recoupment of department error OIs are not pursued. BAM 700, pp. 3-4.

Client Error

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.

A client error also exists when the client's timely request for a hearing results in deletion of a DHS action, **and**

. The hearing request is later withdrawn, **or**

- . SOAHR denies the hearing request, **or**
- . The client or administrative hearing representative fails to appear for the hearing and SOAHR gives DHS written instructions to proceed, **or**
- . The hearing decision upholds the department's actions. See BAM 600. BAM Item 700, p. 5.

SDA Only

A client error exists when the client fails to honor an SDA repay agreement after receiving a potential resource. Do not pursue IPV. See BEM 272. BAM 700, p. 5.

OVERISSUANCE THRESHOLD

FIP, SDS, CDC and FAP Only

Department error OIs are not pursued if the estimated OI amount is less than \$125 per program.

Client error OIs are not established if the OI amount is less than \$125, unless:

- . the client or provider is active for the OI program, or
- . the OI is a result of a Quality Control (QC) audit finding. BAM 700, p. 7.

DEPARTMENT ERROR EXCEPTIONS

FIP, SDA, CDC and FAP Only

Department error OIs are not pursued if the estimated OI amount is less than \$125 per program.

Exception: There is no threshold limit on CDC **system** errors. The Reconciliation and Recoupment Section (RRS) in central office will recoup these types of overissuances.

The department error threshold was lowered to \$125 retroactive back to August 1, 2008.

FIP and SDA Only

Treat an OI due to excess assets as a department error **unless** IPV caused it.

FAP Only

Do not recoup OIs caused by the following department errors:

- . The group was certified in the wrong county.
- . The local office failed to have the FAP group sign the application form. BAM 705, pp. 1-2.

MA, SER and ESS Only

Recoupment of department error OIs is not pursued. BAM 705, p. 2.

OVERISSUANCE PERIOD

FIP, SDA, CDC and FAP Only

OI Begin Date

The OI period begins with the first month (or first period for CDC) when benefit issuance exceeds the amount allowed by policy, or 12 months before the discovery date, whichever is later.

To determine the first month of the OI period for changes reported timely and not acted on, allow time for:

- . the full Standard of Promptness (SOP) for change processing, per BAM 220, **and**
- . the full negative action suspense period. See BAM 220, EFFECTIVE DATE OF CHANGE.

OI End Date

The OI period ends the month (or payment period for CDC) before the month when the benefit is corrected.

OI Discovery Date

FIP, SDA, CDC and FAP Only

The OI discovery date for a department error is the date the RS can determine there is a department error. BAM, Item 705, pp. 4-5.

OVERISSUANCE CALCULATION

FIP, SDA, CDC and FAP Only

Benefits Received

FIP and SDA Only

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
- . Replacement Warrants (use for the month of the original warrant)

Do not include:

- . warrants that have not been cashed
- . escheated EBT cash benefits (SDA only)

BAM, Item 705, p. 5.

FAP Only

The amount of EBT benefits received in the OI calculation is the **gross** (before Automated Recoupment (AR) deductions) amount issued for the benefit month.

FAP participation is obtained on CIMS on the IATP screen.

If the FAP budgetable income included FIP/SDA benefits, use the grant amount actually received in the OI month. Use the FIP benefit amount when FIP closed due to a penalty for non-cooperation with employment-related activity or child support. BAM 705, p. 6.

Determining Budgetable Income

FIP, SDA, CDC and FAP Only

If improper budgeting of income caused the OI, use actual income for the past OI month for that income source.

Convert income received weekly or every other week to a monthly amount.

Exception: For FAP only, income is not converted from a wage match for any type of OI.

Any income properly budgeted in the issuance budget remains the same in that month's corrected budget.

FAP Only

If the FAP budgetable income included FIP/SDA benefits, use the grant amount actually received in the OI month. Use the FIP benefit amount when FIP closed due to a penalty for non-cooperation in an employment-related activity. BAM, Item 705, p. 6.

In this case, the Department is requesting recoupment for a CDC overissuance in the amount of \$ [REDACTED] because Respondent received an overissuance of CDC benefits from January 21, 2007 through March 3, 2007. This is a client error because Respondent continued to receive CDC benefits after she no longer participated in the JET/WF program hourly requirements and decreased her hours at work. Respondent was eligible for, and did receive, 100 hours of CDC benefits per a two week period. In order for Respondent to be eligible for CDC benefits, she must be at work or participating in JET/WF activities up to 100 hours. Respondent discontinued her participation in JET/WF on January 22, 2007. In addition, Respondent substantially reduced her hours at Taco Bell. For example, on January 16, 2007, Respondent worked 5.56 hours. Later on February 27, 2007, Respondent worked [REDACTED] hours. This information was provided by the Department in a paystub from Paymaxx, Inc. The department calculated that Respondent's hourly rate of [REDACTED] time the number of hours worked plus 10 hours of travel time per pay period resulted in an OI of CDC benefits.

For January 21, 2007 through February 3, 2007, Respondent was overissued [REDACTED]. From February 4, 2007 through February 7, 2007, Respondent was overissued [REDACTED] and From February 18, 2007 through March 3, 2007, Respondent was overissued [REDACTED]

During the hearing, Respondent did not provide any documentation to refute the department's calculations. Rather, Respondent simply stated that she is not responsible for the time that her day care provider billed to the department for CDC purposes. Respondent also disputed the Department's assertion that she reduced her hours at work during the time period in question.

This Administrative Law Judge finds, however, that the department has presented evidence to show that Respondent received CDC benefits at the time she did not meet her 100 hour requirement for CDC purposes and was not participating in the WF/JET program. There is no evidence that the day care provider was aware that Respondent

