

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

IN THE MATTER OF:



Reg. No: 201046683
Issue No: 6052
Case No: [REDACTED]
Hearing Date: November 10, 2011
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Christopher S. Saunders

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Department of Human Services (department) request for a disqualification hearing. After due notice, a telephone hearing was held on November 10, 2011, at which Respondent did not appear. This matter having been initiated by the department and due notice having been provided to Respondent, the hearing was held in Respondent's absence in accordance with Bridges Administrative Manual, Item 725.

ISSUE

Whether Respondent committed an Intentional Program Violation (IPV) of the Child Care and Development (CDC) program?

FINDINGS OF FACT

The Administrative Law Judge, based upon the clear and convincing 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).
2. Respondent completed applications for public assistance and for CDC benefits on July 7, 2004, September 13, 2005, and October 22, 2006 acknowledging her responsibility to report any changes in her income, resources, or living arrangements to the department within ten days of the change. (Department Exhibits 12-22, 25-37, 49-51).

3. On her applications, the Respondent stated that she was in need of CDC benefits due to her employment at [REDACTED] [REDACTED] [REDACTED]. (Department Exhibits 12-22, 25-37, 49-51).
4. Upon further investigation, the department determined that the Respondent only worked for [REDACTED] on two occasions; December 26, 2005 through January 16, 2006 and April 5, 2006 through April 21, 2006. (Department Hearing Summary).
5. The Respondent was issued CDC benefits for time periods between July, 2004 and December, 2006 during which the claimant was not working at her stated place of employment. (Department Exhibits 53-60).
6. The Respondent was issued the CDC benefit payments directly.
7. As a result of benefits still being paid on the Respondent's behalf while she was no longer employed, the Respondent received an overissuance of CDC benefits in the amount of [REDACTED] for the period of July 25, 2004 through April 2, 2005, in the amount of [REDACTED] for the period of June 26, 2005 through December 24, 2005, in the amount of [REDACTED] for the period of January 22, 2006 through April 1, 2006, and in the amount of [REDACTED] for the period of April 30, 2006 through December 23, 2006. The total overissuance for the time periods in question is [REDACTED]. (Department Exhibits 53-60).
7. Respondent has no apparent physical or mental impairment that would limit the understanding or ability to fulfill the reporting responsibilities.
8. Respondent had not committed any previous intentional program violations.
9. Respondent was clearly instructed and fully aware of the responsibility to report true and accurate information to the department.

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).

In this case, the department has requested a hearing to establish an overissuance of benefits as a result of an IPV. The department's manuals provide the following relevant policy statements and instructions for department caseworkers.

When a customer client group receives more benefits than they are entitled to receive, the department must attempt to recoup the overissuance. BAM 700. A suspected intentional program violation means an overissuance where:

- 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.

The department suspects an intentional program violation when the client has intentionally withheld or misrepresented information for the purpose of establishing, maintaining, increasing, or preventing reduction of program benefits or eligibility. There must be clear and convincing evidence that the client acted intentionally for this purpose. BAM 720.

The department's Office of Inspector General processes intentional program hearings for overissuances referred to them for investigation. The Office of Inspector General represents the department during the hearing process. The Office of Inspector General requests intentional program hearings for cases when:

- benefit overissuances are not forwarded to the prosecutor.
- prosecution of welfare fraud is declined by the prosecutor for a reason other than lack of evidence, and
 - the total overissuance amount is \$1000 or more, or
 - the total overissuance amount is less than \$1000, and
 - the group has a previous intentional program violation, or
 - the alleged IPV involves FAP trafficking, or
 - the alleged fraud involves concurrent receipt of assistance,
 - the alleged fraud is committed by a state/government employee.

A court or hearing decision that finds a client committed an intentional program violation disqualifies that client from receiving program benefits. A disqualified recipient remains a member of an active group as long as he lives with them. Other eligible group members may continue to receive benefits. BAM 720.

In the case at hand, the Respondent committed an intentional program violation by continuing to receive CDC benefits while she was not working and therefore not in need of said benefits. The Respondent was under an obligation to inform the department of any changes regarding her employment or her living situation and did not inform the department of the change in her employment situation while continuing to collect benefits. Because the Respondent was issued benefit payments directly, her intentional withholding of information from the department resulted in a direct benefit to her.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds clear and convincing evidence that the Respondent committed an Intentional Program Violation of the CDC program.

It is HEREBY ORDERED that the Respondent shall reimburse the department for CDC benefits ineligibly received in the amount of [REDACTED]

/s/ _____
Christopher S. Saunders
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: November 16, 2011

Date Mailed: November 17, 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.

CSS/cr

cc: [REDACTED]