

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: 2010-9939
Issue No: 3020
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
July 28, 2010
Eaton County DHS

ADMINISTRATIVE LAW JUDGE: Steven M. Brown

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 conducted from Lansing, Michigan on July 28, 2010.

ISSUE

Whether the Department made an error in computing Child Care and Development (CDC) benefits which resulted in an overissuance (OI) that the Department is entitled to recoup?

FINDINGS OF FACT

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

1. On October 21, 2009, the Department mailed Claimant a Notice of Overissuance which stated that she was overissued CDC benefits in the amount of \$7369.21 from February 1, 2009 to August 1, 2009 due to agency error. (Exhibit 3)

2. On October 27, 2009, the Department received Claimant's hearing request protesting the Department's request for repayment of the alleged CDC OI. (Exhibit 2)

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 Bridges Reference Manual (BRM).

An OI is the amount of benefits issued to the client group or CDC provider in excess of what they were eligible to receive. When a client receives more benefits than they are entitled to receive, DHS must attempt to recoup the OI. Recoupment is a DHS action to identify and recover a benefit OI. BAM 700, p. 1

Agency errors are caused by incorrect actions (including delayed or no action) by DHS. Some examples include: available information was not used or was used incorrectly, policy was misapplied, action by local or central office was delayed, computer errors occurred, information was not shared between department divisions, data exchange reports were not acted upon timely, etc. BAM 700, p. 3 Client errors occur when the client received more benefits than they were entitled to because the client gave incorrect or incomplete information to the Department. BAM 700, p. 5

In the instant case, the Department testified that Claimant was overissued CDC benefits because of agency error. The Department witness, however, had no personal knowledge of the issue and the Department provided no documentation as to the alleged overissuance and/or how it was calculated.

With the above said, I do not find that the Department established that it acted in accordance with policy in seeking recoupment of CDC benefits allegedly overissued to Claimant as a result of agency error.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, does not find that the Department acted in accordance with policy in requesting repayment of an overissuance of CDC benefits to Claimant.

Accordingly, the Department's CDC eligibility determination REVERSED, it is SO ORDERED. The Department's request for recoupment of an alleged CDC overissuance to Claimant is denied.

/s/ _____
Steven M. Brown
Administrative Law Judge
for Ismael Ahmed, Director
Department of Human Services

Date Signed: August 4, 2010

Date Mailed: August 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 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.

SMB/tg

cc:

