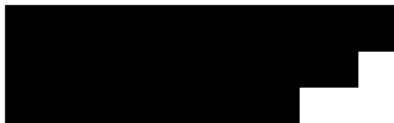


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No: 2011-41638
Issue No: 6052
Case No: [REDACTED]
Hearing Date:
November 8, 2011
Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Vicki L. Armstrong

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 8, 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 Development and Care Program (CDC) 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 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); the OIG also requested that Respondent be disqualified from receiving program benefits.
2. Respondent signed Assistance Application (DHS-1171) on June 21, 2005, December 13, 2005, November 27, 2006 and May 17, 2007, acknowledging that she understood her failure to give timely, truthful, complete and accurate information about her circumstances could result in a civil or criminal action or an administrative claim against her. (Department Exhibit 12-15, 16-23, 24-30, 31-37).

3. Respondent indicated on her June 5, 2005, December 13, 2005, November 27, 2006 and May 17, 2007 assistance applications that she was employed by [REDACTED], and beginning with her December 13, 2005 application, that she was working 40 hours a week. Respondent indicated on her November 27, 2006 application that she was working 49 hours a week. On her June 26, 2007 application, Respondent indicated she was working 40 hours a week. (Department Exhibits 11, 19, 27, 34).
4. Respondent informed the department that she needed daycare to support her employment of providing care for [REDACTED], after the death of [REDACTED] husband on February 5, 2007. Ms. Prentis reported that she did not require assistance after the death of her husband and did not employ Respondent. (Department Exhibits 3, 51)
5. Respondent reported her daycare provider to be Jacqueline Friday Johnson. The department received documentation that Jacqueline Friday Johnson was employed at General Motors Corporation during May 29, 2005 through June 7, 2008 time period. (Department Exhibits 3, 46-50).
6. The Office of Inspector General is pursuing the fraud period of May 29, 2005 through June 7, 2008 for the CDC program. Respondent received [REDACTED] in CDC benefits during the respective alleged fraud period. If Respondent had not fraudulently used [REDACTED] as a provider and had informed the department she was no longer working, Respondent would not have received CDC benefits. (Department Exhibits 2-3).
7. Respondent was clearly instructed and fully aware of the responsibility to report true and accurate information to the department.
8. Respondent has no apparent physical or mental impairment that would limit the understanding or ability to fulfill the income reporting responsibilities.
9. Respondent had not committed any previous intentional program violations of the CDC program. (Department Hearing Request).

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), and the Reference Tables Manual (RFT).

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 this case, Respondent reported that she needed daycare in order support her employment. Respondent was initially employed as a caregiver for a man who died on February 5, 2007. When questioned as to why Respondent was continuing to collect CDC benefits after his death, Respondent stated that she was caring for his wife. The wife stated that she did not employ Respondent after her husband's death. In addition, Respondent listed a woman as her daycare provider who was employed at General Motors during the time frame she was allegedly providing daycare. Therefore, she could not have been providing the daycare Respondent was claiming and receiving benefits for.

As a result, based on the clear and convincing evidence on the whole record, this Administrative Law Judge finds Respondent failed to report her employment ended, and fraudulently listed a provider who did not provide daycare for her children. As a result, Respondent received a \$37,327.00 CDC overissuance from May 29, 2005 through June 27, 2008.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Respondent committed an Intentional Program Violation by falsifying a CDC application stating that Jacqueline Friday Johnson was her day care aid/relative caretaker and receiving benefits for the period of time from May 29, 2005 through June 27, 2008.

Therefore, it is ordered the department is entitled to recoup the overissuance of benefits Respondent ineligibly received. Respondent is ORDERED to reimburse the department for the [REDACTED] CDC overissuance caused by her intentional program violation.

It is SO ORDERED.

/s/

Vicki L. Armstrong
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 11/10/11

Date Mailed: 11/10/11

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.

VLA/ds

■ [REDACTED]