

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: 2011-459
Issue No: 6004
Case No: [REDACTED]
Load No: [REDACTED]
Hearing Date:
December 08, 2010
Lansing AH County DHS

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

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, an in-person hearing was held on December 8, 2010. Claimant personally appeared and testified.

ISSUE

Did the Department of Human Services (the department) properly determine that petitioner was over issued Adoption Subsidy benefits and correctly proposed recoupment of said benefits?

FINDINGS OF FACT

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

- (1) Petitioner adopted a child herein after referred to as child A.
- (2) Claimant signed an Adoption Subsidy agreement on September 7, 2005, which indicated that she was to receive an Adoption Subsidy benefit in the amount of allowed by department policy.
- (3) On June 16, 2006, the child A was placed in the permanent custody of the 17th Judicial Circuit Court Family Division of [REDACTED] and it was ordered that the petition for the adoption of the minor child was dismissed.
- (4) Petitioner continued to receive Adoption Subsidy payments for the child from June 16, 2006, through April 1, 2009.
- (5) Petitioner received a total of \$ [REDACTED] in Adoption Subsidy payments from June 16, 2006, through April 30, 2009.

- (6) Petitioner did not cash \$ [REDACTED] in Adoption Subsidy checks.
- (7) Petitioner cashed \$ [REDACTED] in Adoption Subsidy checks.
- (8) The department determined that petitioner was over issued Adoption Subsidy benefits because the child was no longer in petitioner's custody and the Adoption petition was terminated.
- (9) On May 7, 2010, the Adoption Subsidy program mailed petitioner a subsidy case closure notice requesting an overpayment of \$ [REDACTED] (Department Exhibit B)
- (10) On May 29, 2009, petitioner requested an Administrative Hearing claiming that she is not responsible for the over payment of \$ [REDACTED] (Exhibit B).
- (11) Petitioner did concede on the record that she did continue to cash Adoption Subsidy payments even after the child was no longer in her custody.

CONCLUSIONS OF LAW

The Adoption Subsidy program is established by MCL 400.115, *et seq.*, and is administered by the Department of Human Services (DHS or department) pursuant to MCL 400.10, *et seq.* Department policies regarding adoption subsidy are found in the Services Manual (SM). The federal law upon which Michigan law is based is Title IV-E of the Social Security Act, Section 473(c).

Adoption Support Subsidy eligibility shall exist until one of the following occurs:

- The child becomes 18 years of age
- The child has not yet reached his/her 18th birthday but is emancipated by any of the following:
 - Court order
 - Marriage
 - Entering into the Military Service
- If the child dies
- The **adoption is terminated**

- The adoptive parent has requested in writing that the Adoption Support Payment permanently stop.
- A determination of ineligibility is made by the Department of Human Services. AAM, Item 620, p. 1.

When a client group receives more benefits than they are entitled to receive, the Department of Human Services must attempt to recoup the over issuance. BAM, Item 700, p.1.

In the instant case, petitioner testified on the record that once the child was removed from her home because she became ill, she continued to receive the Adoption Subsidy payments and continued to provide some care for the child and continues to this day to have contact with the child.

There are 3 different types of over issuances. One is an agency error. An agency error over issuance is caused by incorrect action by Department of Human Services or a DIP 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 errors occurred
- Information was not shared between department divisions.
- Data exchange reports were not acted upon timely.

If the department is unable to identify the type of over issuance, it should be recorded as an agency error. A client error exists or occurs when the client receives more benefits when they were entitled to because the claimant gave incorrect or incomplete information to the department. BAM, Item 700, p.5.

In the instant case, this Administrative Law Judge finds that there is department or agency error in this case. The department of Human Services was aware that the adoption petition was terminated in June 16, 2006, by Judge Gregory Pittman in the Circuit Court Family Division County of Muskegon and that the child was remanded and placed in the permanent custody of the 17th Judicial Circuit Court Family Division of [REDACTED] and was referred to the [REDACTED] Department of Human Services for adoptive planning, placement supervision, and care in a licensed foster home or other appropriate licensed facility under MCL 400.55(h). The department of Human Services did not notify the department of Adoption Subsidy that the child adoption had been terminated and the child had been remanded and into the custody of

the Department of Human Services. AAM, Item 140, p. 1, indicates that recoupment for over payments will be pursued retroactively to the date the eligibility ceased to exist. Over payment shall be recovered according to the methods for recoupment in PAM, Item 705. Recovering of subsidy over payments is handled by the reconciliation and recoupment section in the central office.

The Administrative Law Judge finds that the department has established by the necessary competent, material and substantial evidence on the record that it was acting in compliance with department policy when it proposed to recoup over issued Adoption Subsidy program benefits which were issued to petitioner after the adoption petition was dismissed June 16, 2006. However, the department has established that petitioner was over issued \$ [REDACTED] in over issued adoption subsidy benefits instead of \$ [REDACTED]

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that the department has established that it was acting correctly when it proposed to take action to recover the over issuance of \$ [REDACTED] in over issued Adoption Subsidy program benefits.

Accordingly, the department's proposed recoupment action is AFFIRMED. The department is entitled to proceed to attempt to recoup \$ [REDACTED] in over issued Adoption Subsidy benefits for benefits issued from the date of June 16, 2006, through April 30, 2009.

Landis

/s/

Y. Lain

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

Date Signed: February 16, 2011

Date Mailed: February 17, 2011

NOTICE: The law provides that within 60 days of mailing of the above Decision and Order the claimant may appeal the Decision to the probate court for the county in which the petition for adoption was filed. If the adoptee is a resident of the State, the petition may be filed in the probate court for the county in which the adoptee is found.

2010-459/LYL

Administrative Hearings, on its own motion , or on request of a party within 60 days of the mailing date of this Decision and Order, may order a rehearing.
LYL/alc

cc:

