

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

IN THE MATTER OF:



Genesee County DHS

ADMINISTRATIVE LAW JUDGE: C. Adam Purnell

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 (“DHS” or “department”) request for a disqualification hearing. After due notice, a telephone hearing was held on June 21, 2011. A department representative and the respondent both personally appeared and provided testimony.

ISSUE

Did Respondent receive an overissuance of Child and Development Care (CDC) benefits that the department is entitled to recoup?

FINDINGS OF FACT

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

1. Respondent applied for and received CDC benefits.
2. Respondent signed Child Care and Development Application (FIA-4583) on December 14, 2007, acknowledging that she understood her failure to pursue other benefits such as child support and cooperate in child support actions could result in a civil or criminal action or an administrative claim against her. (Department Exhibits 8-14).
3. Respondent’s CDC case was scheduled to be closed due to excess income.
4. Respondent timely submitted a Request for a Hearing and Respondent continued to receive CDC benefits pending the hearing. (Department Exhibits 1-7).
5. The hearing was held on September 11, 2008. (Department Exhibits 1-7).

6. For the period of December 23, 2007 through April 12, 2008, the department budgeted Respondent's actual income figures. But the department did not take any action on Respondent's CDC case due to pending hearing. (Hearing Summary).
7. On September 19, 2008, the Administrative Law Judge reversed the department and ordered the department to initiate a new determination of Respondent's eligibility for CDC using actual income figures and Respondent's child support income. (Department Exhibits 1-2).
8. The department initially failed to consider earned income from Respondent's spouse.¹ When the department budgeted all of Respondent's household income, including the income from her spouse, it determined that Respondent received an overissuance of CDC benefits of \$5,722.61 for the period of December 23, 2007 through September 13, 2008. (Department Exhibits 19-75).
9. When the department failed to correctly budget the income from Respondent's spouse, Respondent received a CDC overissuance for the months of December, 2007 through September, 2008, in the amount of \$5,722.00 in CDC benefits. (Department Exhibits 19-75). The overissuance was due to an agency error. (Department Exhibits 19-75).
10. On February 26, 2009, the department mailed Respondent a Notice of Overissuance (DHS-4358-A) and an Overissuance Summary (DHS-4358-C), which explained how the amount of overissuance was determined. (Department Exhibits 76-80).
11. Respondent requested a hearing on March 6, 2009. (Request for Hearing).
12. Respondent was clearly instructed and fully aware of the responsibility to pursue other benefits for which she may have been eligible, such as child support and to cooperate in child support actions.
13. Respondent has no apparent physical or mental impairment that would limit the understanding or ability to fulfill her responsibilities.

CONCLUSIONS OF LAW

The Child Development and Care (CDC) 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

¹ Respondent was married on or about March 8, 2008.

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 goal of the Child Development and Care (CDC) program is to preserve the family unit and to promote its economic independence and self-sufficiency by promoting safe, affordable, accessible, quality child care for qualified Michigan families. BEM 703. 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.

When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the overissuance (OI). PAM 700. An overissuance (OI) is the amount of benefits issued to the client group or CDC provider in excess of what they were eligible to receive. PAM 700. For FAP benefits, an OI is also the amount of benefits trafficked (traded or sold). PAM 700. Recoupment is a DHS action to identify and recover a benefit OI. PAM 700.

Department errors are caused by incorrect actions by the Department. PAM 705. Department error OIs are not pursued if the estimated overissuance is less than \$125 per program. PAM 700. Client errors occur when the customer gave incorrect or incomplete information to the Department. Client errors are not established if the overissuance is less than \$125 unless the client group is active for the overissuance program, or the overissuance is a result of a quality control audit finding. PAM 700.

In this case, Respondent's CDC income eligible case was due to close for excess income. Respondent timely submitted a Hearing Request her CDC benefits continued to be paid to Respondent pending the hearing. Respondent had an administrative hearing on September 11, 2008. The Administrative Law Judge that presided over the hearing issued a decision that reversed the department and ordered the department to redetermine Respondent's CDC eligibility using actual income figures. The department did not take any action while the hearing was pending. The ALJ rendered her decision on September 19, 2008. The department recalculated Respondent's CDC budget and discovered that it had incorrectly calculated Respondent's income because the department failed to include the income from Respondent's spouse. When the department recalculated all household income, it determined that Respondent was overissued CDC benefits. In addition, because the CDC benefits were pended as a result of Respondent's hearing request, the department is required to recoup the benefits.

Here, the department failed to correctly budget the income from Respondent's spouse, Respondent received a CDC overissuance for the months of December, 2007 through September, 2008. (Department Exhibits 19-75). Due to agency error, Respondent received CDC benefits on December 23, 2007 in the amount of [REDACTED], but she should have only been issued [REDACTED]. (Department Exhibit 78). This resulted in an overissuance of [REDACTED]. Respondent received \$547.19 on the following dates: January

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6 & 20, 2008; February 17, 2008; March 16 & 30, 2008; April 13 & 27, 2008; May 11 & 25, 2008; and June 8 & 22, 2008. Respondent was not eligible for CDC benefits during this time period resulting in an overissuance. (Department Exhibit 78). Accordingly, Respondent received a total overissuance of [REDACTED].

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Respondent received an overissuance of CDC benefits for the time period of January, 2008 through June, 2008, that the department is entitled to recoup.

The department's recoupment of overissued CDC benefits is **AFFIRMED** and the department is therefore entitled to recoup CDC overissuance of [REDACTED] from Respondent.

IT IS SO ORDERED.

/S/

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

Date Signed: 9/12/11

Date Mailed: 9/12/11

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.

[REDACTED]