

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

IN THE MATTER OF:



Reg. No.: 201121316
Issue No.: 6052
Case No.:
Hearing Date: September 14, 2011
County: Wayne DHS (57)

ADMINISTRATIVE LAW JUDGE: Christian Gardocki

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 following Respondent's request for a hearing. After due notice, a telephone hearing was held on September 14, 2011 from Detroit, Michigan. Participants on behalf of Respondent included nobody. Participants on behalf of Department of Human Services (Department) included , Regulation Agent.

ISSUE

Did Respondent receive an overissuance of Child Development and Care (CDC) benefits 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. During the period of 4/17/05 through 3/31/07, Respondent received benefits for:

- | | |
|---|---|
| <input type="checkbox"/> Family Independence Program (FIP). | <input type="checkbox"/> State Disability Assistance (SDA). |
| <input type="checkbox"/> Food Assistance Program (FAP). | <input checked="" type="checkbox"/> Child Development and Care (CDC). |
| <input type="checkbox"/> Medical Assistance (MA). | |

2. The Department determined that Respondent received a
 FIP FAP MA SDA CDC overissuance in the amount of \$29,412 during the period of 4/17/05 through 3/31/07.

3. The alleged overissuance was due to Department error. client error.

4. On 1/27/11, the Department sent notice of the overissuance and a repayment agreement to Respondent.
5. On an unknown date, Respondent filed a hearing request, protesting the Department's recoupment action.

CONCLUSIONS OF LAW

Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

The Family Independence Program (FIP) was established pursuant to the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, Public Law 104-193, 42 USC 601, *et seq.* The Department (formerly known as the Family Independence Agency) administers FIP pursuant to MCL 400.10, *et seq.*, and 1997 AACS R 400.3101-3131. FIP replaced the Aid to Dependent Children (ADC) program effective October 1, 1996.

The Food Assistance Program (FAP) [formerly known as the Food Stamp (FS) program] is established by the Food Stamp Act of 1977, as amended, and is implemented by the federal regulations contained in Title 7 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers FAP pursuant to MCL 400.10, *et seq.*, and 1997 AACS R 400.3001-3015.

The Medical Assistance (MA) program is established by the Title XIX of the Social Security Act and is implemented by Title 42 of the Code of Federal Regulations (CFR). The Department (formerly known as the Family Independence Agency) administers the MA program pursuant to MCL 400.10, *et seq.*, and MCL 400.105.

The State Disability Assistance (SDA) program, which provides financial assistance for disabled persons, is established by 2004 PA 344. The Department of Human Services (formerly known as the Family Independence Agency) administers the SDA program pursuant to MCL 400.10, *et seq.*, and 1998-2000 AACS R 400.3151-400.3180.

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 provides services to adults and children pursuant to MCL 400.14(1) and 1997 AACS R 400.5001-5015.

Respondent initially reported to DHS that she was an employee for American Detail Cleaning Inc. and received approximately two years worth of CDC benefits based on

this employment. DHS now contends that Respondent made up the employment solely to receive CDC benefits.

The DHS witness testified that he mailed documentation to Respondent's alleged employer in 3/2007, the final month of Respondent's CDC benefits, but received no response. He also stated that he attempted to contact the employer by phone but again received no response. DHS used the address and phone number provided on multiple Verifications of Employment (Exhibits 9-12)

DHS questioned the legitimacy of handwritten receipts submitted by Respondent (Exhibits 13-14) which supposedly verified employment payments to Respondent. DHS pointed out that Respondent's supposed employer prefaced the signature of his name with "Mr.", a rather unusual way to sign one's name. Further, the signatures of the alleged business owner drastically differed between receipts dated 4/2005 (Exhibit 14) from those dated 10/2005 (see Exhibit 13).

DHS also noted that the handwriting on one page of receipts somewhat resembled Respondent's handwriting as indicated in her Assistance Applications (Exhibits 15-22 and 23-30). Though no handwriting expert testified concerning the similarities, a layman view could see some similarities.

Respondent's employment was not taxed and not reported to the Michigan Treasury by the alleged employer. However, DHS conceded that this was not a requirement for clients to be eligible for CDC benefits.

Based on the presented evidence, there was valid reason to believe that Respondent lied about having the reported employment. Respondent's household size of eight persons would give Respondent a financial incentive to report phony employment because fraudulent CDC benefits for a large group size would offset any decrease in other benefits.

If the administrative hearing issue was simply whether Respondent was entitled to CDC benefits, DHS would have presented enough evidence to justify a denial or termination of benefits. However, in recouping already issued CDC benefits, the burden should be increased simply by recognizing that DHS at one time found the employment to be reputable. Further, it is reasonably conceivable that the employer was unresponsive to the DHS inquiries out of laziness or some other reason not related to fraud. The handwriting quirks, the financial motivation and under-the-table nature of Respondent's employment is also evidence of fraud but not definitive evidence. Though it is very possible that Claimant committed fraud and therefore an overissuance of CDC benefits occurred, the evidence simply did not quite establish it.

Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that Respondent

did receive an overissuance for FIP FAP MA SDA CDC benefits in

the amount of \$ that the Department is entitled to recoup.

did not receive the overissuance for which the Department presently seeks recoupment.


DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department
 did act properly. did not act properly.

Accordingly, the Department's decision is AFFIRMED REVERSED for the reasons stated on the record.

THE DEPARTMENT IS ORDERED TO DO THE FOLLOWING WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. cease any debt establishment actions against Respondent for the alleged over-issuance of CDC benefits.



Christian Gardocki
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: September 20, 2011

Date Mailed: September 20, 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.

The Respondent may appeal the Decision and Order to Circuit Court within 30 days of the mailing 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.

Respondent may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
 - misapplication of manual policy or law in the hearing decision,
 - typographical errors, mathematical error , or other obvious errors in the hearing decision that effect the substantial rights of the Respondent;
 - the failure of the ALJ to address other relevant issues in the hearing decision

Request must be submitted through the local DHS office or directly to MAHS by mail at

2011-21316/CG

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

CG/hw

cc:

