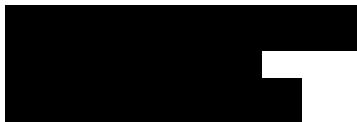


STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 201121319
Issue No.: 6052
Case No.: [REDACTED]
Hearing Date: September 14, 2011
Wayne County 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 upon a Department of Human Services (DHS) request for a hearing. After due notice, a telephone hearing was held on September 14, 2011 from Detroit, Michigan. On behalf of DHS, [REDACTED] Regulation Agent, appeared and testified. Respondent failed to appear.

ISSUE

Whether DHS may pursue debt collection actions against Respondent for allegedly over-issued Child Development and Care (CDC) benefits.

FINDINGS OF FACT

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

1. Respondent was an ongoing CDC benefit recipient.
2. Respondent was employed part-time for [REDACTED] (Job #1) (see Exhibits 11-12) from 12/5/02 through 5/24/03 for 35 hours per week.
3. The Employment Verification dated 7/8/03 for [REDACTED] (Exhibits 11-12) indicates Respondent was high-risk pregnant and unable to work.
4. CDC benefits continued to be billed after 5/24/03 despite no apparent need reason for the CDC billing.

5. As of 2/7/05, Respondent began employment with [REDACTED] (Job #2) (see Exhibits 13-14).
6. Respondent stopped employment with [REDACTED] as of 9/14/05 (see Exhibit 19).
7. As of 3/2005, Respondent was also employed with [REDACTED] (Job #3) (see Exhibits 15-18).
8. DHS alleged Respondent was over-issued CDC benefits for the following dates and amounts: \$6786.80 from 1/12/03-11/29/03 and \$8182 from 1/23/05-4/28/07.
9. On 1/25/11, DHS requested a hearing to establish a basis for debt collection against Respondent for the allegedly over-issued CDC benefits totaling \$14968.80.

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 (formerly known as the Family Independence Agency) 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).

Concerning whether an over-issuance of benefits occurred, the DHS regulations in effect of the alleged overissuance benefit period shall be considered. Concerning whether DHS properly followed debt collection procedures, the regulations in effect as of 1/2011 (the month of the DHS hearing request) shall be considered. It should be noted that older DHS regulations were founding Program Administrative Manual (PAM) and the Program Eligibility Manual (PEM). Current DHS manuals may be found online at the following URL: <http://www.mfia.state.mi.us/olmweb/ex/html/>.

DHS requests a "Debt Collection Hearing" when the grantee of an inactive program requests a hearing after receiving the DHS-4358B, Agency and Client Error Information and Repayment Agreement. BAM 725 at 13. Active recipients are afforded their hearing rights automatically, but DHS must request hearings when the program is inactive. *Id.* Though the client must request a hearing to trigger a "Debt Collection Hearing", the hearing is considered to be DHS requested. The hearing decision determines the existence and collectability of a debt to DHS.

When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the over-issuance (OI). BAM 700 at 1. An OI is the amount of benefits issued to the client group in excess of what they were eligible to receive. *Id.* Recoupment is a DHS action to identify and recover a benefit OI. *Id.*

DHS may pursue an OI whether it is a client caused error or DHS error. *Id.* at 5. Client and Agency error OIs are not pursued if the estimated OI amount is less than \$125 per program. BAM 700 at 7. If improper budgeting of income caused the OI, DHS is to recalculate the benefits using actual income for the past OI month for that income source. BAM 705 at 6.

DHS is to request a debt collection hearing only when there is enough evidence to prove the existence and the outstanding balance of the selected OIs. *Id.* at 15. Existence of an OI is shown by:

- A signed repay agreement, or
- A hearing decision that establishes the OI, or
- If a repay, court/hearing decision cannot be located: copies of the budgets used to calculate the OI, copies of the evidence used to establish the OI, and copies of the client notice explaining the OI. BAM 725 at 15.

OI balances on inactive cases must be repaid by lump sum or monthly cash payments unless collection is suspended. *Id.* at 6. Other debt collection methods allowed by DHS regulations include: cash payments by clients, expunged FAP benefits, State of Michigan tax refunds and lottery winnings, federal salaries, federal benefits and federal tax refunds. *Id.* at 7.

In the present case, DHS is attempting to establish a debt against Respondent of \$14968.80 in allegedly over-issued CDC benefits. DHS provided numerous documents concerning Respondent's employment which verified her work hours from the recoupment period. DHS also provided CDC billing records from the time of the alleged over-issued CDC benefits. DHS properly took the difference between Respondent's verified employment hours and billing hours to determine the over-issuance. DHS properly allowed 10 hours of travel time in calculating the over-issuance. Based on the provided records, there was rampant and routine over-billing by Respondent's CDC provider, her children's aunt. It is found that DHS established a basis for debt collection of \$14968.80 in over-issued CDC benefits. However, it must be determined whether Respondent is responsible for the over-issuance or whether her provider is responsible.

When a CDC overissuance is discovered, DHS must determine whether the error is client, DHS or provider caused. PAM 715 at 2. DHS collection action policy outlines different procedures when an OI is due to client error or CDC provider error (see PAM 725 at 2). For CDC provider errors, DHS contacts the provider, not the client, for

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possible repayment of the debt. This policy tends to show that DHS does not hold clients responsible for CDC provider errors.

In the present case, DHS is pursuing debt collection against Respondent, not her provider. DHS contended that Respondent had knowledge of the overbilling, partly because the CDC provider was her children's aunt and partly because the testifying specialist stated that Respondent would have received documents from DHS which informed her how many hours the provider was billing. In other words, DHS contended that Respondent knew or should have known that her provider was overbilling DHS every single time a two week CDC payment was requested by her provider. Based on the presented evidence, DHS met the preponderance requirement to establish that Respondent was sufficiently responsible for the overbilling of CDC benefits. Accordingly, the DHS debt collection is affirmed.

DECISION AND ORDER

The actions taken by DHS are partially AFFIRMED. The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS properly sought recoupment of \$14968.80 in over-issued CDC benefits.



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

Date Signed: October 4, 2011

Date Mailed: October 4, 2011

NOTICE: The law provides that within 60 days from the mailing date of the above decision the Respondent may appeal it to the circuit court for the county in which he/she resides or has his or her principal place of business in this state, or in the circuit court for Ingham County. Administrative Hearings, on its own motion, or on request of a party within 60 days of the mailing date of this Hearing Decision, may order a rehearing.

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