

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 2011-2351

Issue No: 6052

[REDACTED]

Wayne County DHS

ADMINISTRATIVE LAW JUDGE: Suzanne L. Morris

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 [REDACTED]. Respondent personally appeared and provided testimony.

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).
2. Respondent signed Assistance Application (FIA-1171) and Day Care Aide/Relative Care Provider (FIA-220) on May 29, 2002, 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 9-20).
3. On the Assistance Application, Respondent listed her employment with the City of Detroit. (Department Exhibit 14).

4. On July 18, 2006, the department received employment income and verification in the form of a handwritten note attached to the department's subpoena to the City of Detroit, showing Respondent did not have any earnings in the fourth quarter of 2005. (Department Exhibit 21).
5. On August 29, 2006, the department received a verification of employment from the City of Detroit through Work Number showing Claimant was hired on August 28, 2002 and terminated as of May 20, 2006. (Department Exhibits 25-27).
6. On June 21, 2006, the FIA Employee Wage History by social security number showed Respondent had no earned income from the [REDACTED] [REDACTED] for the fourth quarter of 2005. There was also a handwritten note that Respondent was terminated on May 20, 2006, and the wage history showed Respondent received income in the first two quarters of 2006. (Department Exhibits 29-36).
7. Respondent received [REDACTED] in CDC benefits during the alleged fraud period of October 2, 2005 through December 24, 2005. (Department Exhibit 2).
8. The department alleges that Respondent failed to report she was no longer employed with the [REDACTED] in a timely manner, resulting in a CDC overissuance for the alleged fraud period of October 2, 2005 through December 24, 2005, in the amount of [REDACTED] (Department Exhibits 2-3).
9. Respondent has not committed any previous intentional program violations of the CDC program. (Department Hearing Request).
10. On May 5, 2011, the Administrative Law Judge received the payroll register from the City of Detroit, showing Respondent was employed full-time during October 2, 2005 through December 24, 2005. (Respondent's Exhibits 1-9).

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), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

In this case, the department has requested a disqualification hearing to establish an overissuance of benefits as a result of an IPV. The department's manuals provide the following relevant policy statements and instructions for department caseworkers.

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 [REDACTED] or more, or
 - the total overissuance amount is less than [REDACTED] 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 completed an application for assistance on May 29, 2001. On this application, Respondent indicated that she was employed by the [REDACTED]. During the hearing, the department requested repayment of a CDC overissuance Respondent received from October 2, 2005 through December 24, 2005 in the amount of [REDACTED] because she failed to report her employment with the [REDACTED] ended on September 30, 2005. Respondent credibly testified that she was employed with the [REDACTED] during this time period and that her employment did not end until May 20, 2006, and then she returned to work for the [REDACTED] in early 2007. Based on Respondent's credible testimony, the record was left open to give Respondent the opportunity to obtain documentation from the [REDACTED] showing she was employed during the alleged fraud period.

On May 5, 2011, this Administrative Law Judge received detailed pay histories from the City of Detroit showing Respondent was employed full-time during the time period of October 2, 2005 through December 24, 2005. As a result, this Administrative Law Judge concludes that Respondent has shown, by clear and convincing evidence, that she did not commit a first intentional violation of the CDC program. Consequently, the department's request for full restitution is denied.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Respondent did not commit an Intentional Program Violation of the CDC program because she was employed full-time while receiving CDC benefits for the period of time from October 2, 2005 through December 24, 2005.

Accordingly, the department's request for recoupment is DENIED.

It is SO ORDERED.

_____/s/_____
Suzanne L. Morris
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 5/10/11

Date Mailed: 5/10/11

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.

[REDACTED]

[REDACTED]

[REDACTED]