

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201127750
Issue No.: 4060
Case No.: [REDACTED]
Hearing Date: August 24, 2011
Wayne County DHS (55)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Respondent's request for a hearing. After due notice, a telephone hearing was held on August 24, 2011. The Respondent did not appear. Agent [REDACTED], Office of Inspector General, appeared for the Department of Human Services.

ISSUE

Whether the Department is entitled to recoup an overissuance of Child Development and Care (CDC) benefits and whether the Department is entitled to collect a debt.

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial 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 CDC benefits received by Respondent as a result of Respondent having misrepresented her need for CDC benefits due to her employment. The OIG also requested that a debt be established as a result of an overissuance of CDC benefits to the Respondent.
2. Respondent was a recipient of Child Development and Care (CDC) during the period of February 5, 2005 through August 3, 2005 and November 16, 2005 through December 20, 2006. Item 10 pages 55 through 59.
3. The Department alleged that the Respondent misrepresented her employment, and thus her need based on alleged employment with [REDACTED] beginning January 2005 and with [REDACTED] starting September 2005.

4. The Respondent claimed that she was working for [REDACTED] on an application dated 7/14/05, received by the Department on July 14, 2005. The Department did not provide a verification for this employment at the hearing. The Respondent did not list a start date for the employment on the application, and no other information was provided. Item 8.
5. The address, [REDACTED], was listed by the Respondent for the employer and employment verification she supplied for [REDACTED] B [REDACTED]. The address listed was a hospital and not the business address for [REDACTED]. [REDACTED] was listed on [REDACTED], but with a different owner. Items 2 and 3.
6. The Respondent did not list either of these employers, [REDACTED] and [REDACTED] on her tax returns for the periods in question.
7. Respondent was aware of the responsibility to report all household employment and income to the Department and to honestly verify employment.
8. The verification of employment provided by [REDACTED] does not establish that such employer existed, and therefore employment was not established for the period after 9/3/05 and thereafter when the Respondent claimed to be employed for purposes of receiving CDC.
9. No verification of employment for [REDACTED] was provided as evidence at the hearing. .
10. The Department did not provide any evidence that the Respondent was not employed for the period February 5, 2005 though July 14, 2005.
11. After September 3, 2005 the Respondent did not establish any employment which could be verified, and therefore need for CDC benefits on the basis of employment was not established by the Respondent.
12. Respondent misrepresented verified employment and provided incorrect information for the purpose of receiving CDC benefits to which Respondent was not entitled.
13. As result of the Respondent's failure to establish need for CDC benefits due to employment, Respondent received an overissuance of CDC benefits received after September 3, 2005 through December 20, 2006. Item 10.

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 Michigan Administrative Code Rules R 400.5001-5015. Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM) and the Bridges Reference Manual (BRM).

In this case, the Department seeks debt establishment for an overissuance of Child Development and Care benefits (CDC) due to client error resulting from the Respondent filing verifications of employment and/ or claiming employment with [REDACTED] and [REDACTED].

As regards the employment for [REDACTED] II, the Department did not provide sufficient information by way of evidence to establish a debt. No verification of employment was provided and thus it could not be determined whether the Respondent was legitimately employed by this employer on and after July 14, 2005 (the date the employment was reported on the application for benefits of the same date). Further, while the Department testified that this employer was not listed on the Respondent's tax return for this tax year, that fact by itself does not establish a misrepresentation about the employment, or failure to establish employment by the Respondent. Further the failure of the phone number listed (disconnected etc.) for [REDACTED] in 2009 does not substantiate that such employment did not exist or occur in 2005.

The Department did establish that the Respondent misrepresented pertinent information regarding her employment with [REDACTED] sufficient to establish that the employer as represented by the Respondent did not exist. Because the Respondent's employment with [REDACTED] is not established, the Respondent had no need for CDC benefits and thus was not entitled to benefits on the basis of this employment. Accordingly, the Department overissued CDC benefits and has established its right to recoup by debt collection a debt.

An overissuance ("OI") occurs when a client group receives more benefits than they are entitled to receive. BAM 700, p. 1. A claim is the resulting debt created by the over issuance of benefits (OI). Id. Recoupment is an action to identify and recover a benefit. Id. The Department must take reasonable steps to promptly correct any overpayment of public assistance benefits, whether due to department or client error. BAMs 700, 705, 715, and 725. A client error OI occurs when the client received more

benefits than they were entitled to because the client gave incorrect or incomplete information to the Department. BAM 700 p, 5. In this case the amount of the over issuance exceeds \$125 dollars so the department is entitled to pursue the CDC over issuance involved in this matter.

In the subject case, the Department has established its entitlement to collect the debt as the evidence presented at the hearing clearly established its entitlement to recovery of CDC benefits improperly paid to the Respondent due to client error. Recipients of CDC benefits are not entitled to collect CDC benefits under circumstances where employment does not exist. BEM 703. The uncontroverted evidence showed the Respondent advised the Department that she was employed with [REDACTED] on her 9/3/05 application and thereafter filed a verification of employment which could not be verified as to address of the employer and the individual completing the verification. Therefore, it is concluded that the verifications were not properly prepared and were incorrect and no such employment could be established. As no employment was established, the Respondent had no need basis for CDC benefits and was not entitled to benefits. BEM 703.

The proof of payments of CDC benefits received by the Respondent submitted by the Department for the period in question were reviewed and clearly established that the Respondent received an overissuance in CDC benefits, however the Department must recalculate the amount from and after September 3, 2005 when the Respondent reported the employment. As no evidence established that the need basis for the CDC existed prior to September 3, 2005, the Department is not entitled to a finding of an overissuance for the period prior to September 3, 2005.

The undersigned after a thorough review of the documents submitted by the Department Items 1 through 10 presented at the hearing and admitted as evidence, and the testimony of the Agent who investigated the matter finds that there was an over-issuance and that the Department is entitled to collect as a debt the amount of CDC benefits received by the Respondent from September 3, 2005 through December 20, 2006. Accordingly, the Department has established an OI and debt establishment of the Respondent's CDC benefits by the evidence presented, and the Department is entitled to initiate collection procedures in accordance with Department policy.

DECISION AND ORDER

The Administrative Law Judge, based on the above findings of fact and conclusions of law finds that the Respondent was overissued CDC benefits from and after September 3, 2005 through December 20, 2006 and that the Department has established a debt which it is entitled to initiate debt collection proceedings for.

It is ORDERED:

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1. The Department is not entitled to initiate debt collection proceedings for the period prior to September 3, 2005 as it did not establish that the Respondent was not employed. Its request to initiate debt collection proceedings for this period was not substantiated, and is REVERSED.
2. The Department is entitled to pursue, and shall initiate debt collection proceedings for the period September 3, 2005 through December 20, 2006.
3. The Department shall recalculate the overissuance of CDC benefits and shall include in the overissuance only CDC benefits received by the Respondent from and after September 3, 2005 through December 20, 2006 based upon Item 10 presented and marked as an exhibit at the hearing.
4. The Department shall initiate debt collection proceedings for overissuance of CDC benefits in the amount it determines after the recalculation ordered herein by paragraph 3 of this Order.


Lynn M. Ferris
Administrative Law Judge
For Maura Corrigan, Director
Department of Human Services

Date Signed: September 21, 2011

Date Mailed: September 21, 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.

LMF/hw

cc:

