

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

IN THE MATTER OF:

[REDACTED]

Registration. No: 2011-32102
Issue No: 6021
Case No: [REDACTED]
Hearing Date: July 7, 2011
Grand Traverse County DHS

Administrative Law Judge: Mark A. Meyer

HEARING DECISION

This matter is before the undersigned Administrative Law Judge in accordance with MCL 400.9, MCL 400.37 and 1999 AC, R 400.903. Claimant requested a hearing on March 17, 2011, and, after due notice, one was held on July 7, 2011. Claimant appeared at hearing and provided testimony. The Department of Human Services (DHS) was represented by agency personnel.

ISSUE

In dispute was whether a portion of Claimant's Child Development and Care (CDC) benefit payments were properly the subject of a Michigan Department of Treasury (Treasury) tax offset.

FINDINGS OF FACT

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

1. At all times relevant to this matter, Respondent was receiving CDC benefits for the care of her two children. (DHS Exhibit D-2; DHS hearing summary, dated May 4, 2011; DHS representative's hearing testimony, July 7, 2011; Claimant's hearing testimony, July 7, 2011.)
2. Claimant's CDC provider was her mother, Paula Marrs. (DHS Exhibits D-1; Claimant's hearing testimony.)
3. Between August 1, 2010, and November 6, 2010, Treasury, through operation of a tax offset, recouped [REDACTED] from Claimant's CDC benefits. (DHS Exhibits D-1; D-5.)

4. Although she provided no explanation or background information, Claimant admitted that the Treasury tax offset was against her, not her mother. (Claimant's hearing testimony.)
5. Although there appeared to be no negative action taken on the part of DHS, Claimant filed a hearing request on March 17, 2011, to contest Treasury's tax offset of a portion of her CDC benefits. (Claimant's request for hearing, dated March 17, 2011.)

CONCLUSIONS OF LAW

The hearing and appeals process for applicants and recipients of public assistance in Michigan is governed by 1999 AC, R 400.901 through 400.951, in accordance with federal law. An opportunity for hearing must be granted to an applicant who requests a hearing because his claim for assistance is denied or not acted on with reasonable promptness, and to any recipient who is aggrieved by Department action resulting in suspension, reduction, discontinuance, or termination of assistance. Rule 400.903(1).

A recipient of benefits holds the right to contest an agency decision affecting eligibility or benefit levels whenever it is believed that the decision is incorrect. The Department must provide an administrative hearing to review the decision and determine its appropriateness. Bridges Administrative Manual (BAM) 600, p. 1.

Here, Claimant asserted that it was improper for Treasury to reduce her CDC benefits by the amount of a determined tax offset. Claimant's assertion is without merit under the circumstances and evidence presented in this matter.

The CDC program was established under Titles IVA, IVE, and XX of the Social Security Act, 42 USC 301, *et seq.*, the Child Care and Development Block Grant of 1990, and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193 (1996). The program is implemented under Title 45 of the Code of Federal Regulations, Parts 98 and 99. In accordance with this authority, the Department administers the program and provides services to adults and children under MCL 400.14(1) and Rules 400.5001 through 5015. Department policies pertaining to the CDC program are found in the BAM, Bridges Eligibility Manual (BEM), and Reference Tables Manual (RFT). The goal of the 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, p. 1.

Here, Claimant provided no explanation or background of any kind regarding when or why Treasury initiated a tax offset against her; she did acknowledge, however, that the offset existed against her. According to Claimant, she contacted Treasury and requested further information regarding the offset, but had not received any response as of the date of hearing. But, Claimant provided no evidence or authority indicating that the Treasury tax offset, and the concomitant reduction in CDC payments to her provider, was in any way the result of any negative action taken by DHS. Without any

more information than that provided by Claimant at hearing, it is questionable whether this administrative law judge even has jurisdiction in this matter. See DHS Delegation of Hearing Authority, dated July 13, 2011.¹

That being said, and again with Claimant providing very limited information in this matter, there are situations in which the benefits being received by a DHS client may be attached by Treasury for the purpose of recoupment. See, e.g., BAM 705; 715; 720; 725. Contrary to Claimant's assertion at hearing, however, benefits received by a client are those of the client, even if some or all are subsequently passed on to a care provider. This is the case because it is the client's circumstances and financial situation that is the basis for eligibility, not those of the provider. See, e.g., BEM 205; 525; 703. Claimant's contention that Treasury's tax offset against her could not be the basis for attaching some or all CDC payments to her mother (the child care provider) is thus without any merit.

Without any more information or other evidence provided by Claimant in this matter, it cannot be reasonably determined whether: (1) jurisdiction exists; and (2) the amount of CDC benefits attached by Treasury's tax offset was in error, incorrect, or otherwise inappropriate.

Finally, Claimant questioned whether her CDC provider received proper payment for various pay periods between October 2010 and February 2011. DHS provided credible evidence demonstrating that Claimant was fully authorized for CDC benefits during this time period. (See, e.g., DHS Exhibit 3.) In other words, the provider was entitled to the amount billed up to the extent of Claimant's eligibility and DHS policy. Documentation provided by Claimant established that her CDC provider received ██████████ during the period in issue. (See Claimant's Exhibit C-1.) However, when questioned whether this amount represented the sum total of *all* CDC payments received by her between October 2010 and February 2011, the provider simply stated "I don't know." (Claimant CDC provider's hearing testimony, July 7, 2011.) Moreover, Claimant provided no evidence indicating that her provider was entitled to more than what was actually paid by DHS for the period in issue.

Again, in light of the fact that Claimant was fully authorized to receive CDC benefits, and given the overall lack of evidence, it cannot be reasonably concluded that DHS took any

¹ Claimant provided no authority or other rationale for the proposition that this administrative law judge held jurisdiction to modify or cancel a tax offset initiated by the Michigan Department of Treasury, especially in light of the fact that she provided no information or other background for the basis of such offset. It is not sufficient for a party simply to leave it up to the fact-finder to discover and rationalize the basis for his claims, or unravel and elaborate for him his arguments, and then search for authority either to sustain or reject his position. See, e.g., *Wilson v Taylor*, 457 Mich 232, 243; 577 NW2d 100 (1998); *Peterson Novelty, Inc v Berkley*, 259 Mich App 1, 14; 672 NW2d 351 (2003).

negative action regarding such benefits or that Claimant's provider was shorted any amount for the period in issue.

DECISION AND ORDER

Based on the above findings of fact and conclusions of law, the Administrative Law Judge decides that DHS properly administered a tax offset initiated by the Michigan Department of Treasury.

DHS action in this matter is AFFIRMED.

It is SO ORDERED.

/s/ _____
Mark A. Meyer
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: 8/8/11

Date Mailed: 8/8/11

NOTICE: Administrative Hearings may order a rehearing or reconsideration on either its own motion or at the request of a party within 30 days of the mailing date of this decision and order. Administrative Hearings will not order a rehearing or reconsideration on the Department's motion where the final decision cannot be implemented within 90 days of the filing of the original request.

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Claimant may appeal this decision and order to the Circuit Court for the county in which she resides within 30 days of the receipt of this decision and order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

MAM/sc

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