

STATE OF MICHIGAN
STATE OFFICE OF ADMINISTRATIVE HEARINGS AND RULES
ADMINISTRATIVE HEARINGS FOR THE
DEPARTMENT OF HUMAN SERVICES

IN THE MATTER OF:



Reg. No.: 2011-6603
Issue No.: 6004
Case No.: [REDACTED]
Hearing Date: February 17, 2011
DHS County: Wayne (82-69)

ADMINISTRATIVE LAW JUDGE: Jonathan W. Owens

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9; and MCL 400.37 upon Petitioner's request for a hearing. After due notice, a hearing was held on February 17, 2011. Petitioner was not represented.

ISSUE

Did the Department of Human Services (Department) properly deny replacement of lost/stolen support subsidy payment?

FINDINGS OF FACT

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

1. On June 9, 2010, Petitioner notified the Department he had not received his monthly payment.
2. On June 25, 2010, the Department sent Petitioner a State form 1354, Affidavit Claiming a Forged Endorsement on a State Treasurer's Warrant.
3. On July 20, 2010, the Department received the signed and notarized 1354 back from Petitioner.
4. On July 29, 2010, these forms were sent to the Warrant Control for processing.
5. On September 29, 2010, the Department received a memo indicating the warrant/check (payment) would not be replaced. This memo indicated the bank had refused to credit Treasury citing that Petitioner was, indeed, the one who cashed the warrant.

6. On November 11, 2010. Petitioner requested a hearing.

CONCLUSIONS OF LAW

The Adoption Subsidy program is established by MCL 400.115, *et seq.*, and is administered by the Department (formerly known as the Family Independence Agency) pursuant to MCL 400.10, *et seq.* Department policies regarding adoption subsidy are found in the Services Manual (SM). The federal law upon which Michigan law is based is Title IV-E of the Social Security Act, Section 473(c).

The State of Michigan administers three adoption subsidy programs: Adoption Support Subsidy; Adoption Medical Subsidy and Nonrecurring Adoption Expenses Reimbursement. The purpose of support and medical subsidies is to remove financial barriers to the adoption of Michigan foster children with special needs, as defined by MCL 400.115f. The purpose of the Nonrecurring Adoption Expenses Reimbursement program is to assist in paying the out-of-pocket expenses of adoption of special needs children. Based on each individual child's situation and needs, one or more of the subsidy benefits may be available to support their adoption. Some children do not qualify for any subsidy program based on their individual circumstances. Subsidy is available without respect to the income of the adoptive parent(s). The Adoption Support Subsidy is intended to assist with the payment of expenses of caring for and raising the child. It is not intended to meet all of the costs of raising the child; rather, it is a money grant program, which provides assistance to adoptive parents in certain defined and limited ways. Adoptive parents retain financial and decision-making responsibility and authority for their child. A support subsidy is a monthly payment to the parent or parents of an eligible adopted child. This payment provides assistance to the parent or parents of the adopted child and eligibility is determined before the petition for adoption is filed. The child-placing agency, the Department of Human Services, or the Department of Community Health unit that has responsibility under Michigan's law for the care and supervision of the child is responsible for submitting the application for support subsidy. CFS Manual Item 100.

Under Bridges Administrative Manual Item 600, clients have the right to contest any Department decision affecting eligibility or benefit levels whenever they believe the decision is illegal. The Department provides an Administrative Hearing to review the decision and determine if it is appropriate. Department policy includes procedures to meet the minimal requirements for a fair hearing. Efforts to clarify and resolve the client's concerns start when the Department receives a hearing request and continue through the day of the hearing.

In the present case, Petitioner requested a hearing after being informed a payment he was to receive in May 2010 would not be reissued. Petitioner contacted the local Department office in June 2010 indicating he had not received his payment. The Department had Petitioner complete an affidavit indicating he had not received or cashed the warrant. The Department sent these forms to Warrant Control who then

determined that Petitioner had received the funds after receiving a copy of the cashed warrant and a statement from the drug store who cashed the warrant. It should be noted the supposed statement relied upon by Treasury and the bank is not signed or dated. The bank returned a copy of the cashed warrant which was not only endorsed but contained a finger print. Petitioner indicated during the hearing his willingness to submit a finger print for comparison.

Relevant policy cited by the Department is SRM 192, p. 8-14, which states:

LOST, DESTROYED, NOT RECEIVED, AND STOLEN WARRANTS/STOP PAYMENT

Warrants reported lost, destroyed, not received or stolen may be replaced/rewritten after recovery is made on the original warrant. Recovery means that the value of the warrant has been credited back to the account it was written from or if a forged warrant has cleared Treasury, that the party which cashed the forged warrant has reimbursed the State.

Responsibility

ACTION

Payee(s)

Reports to specialist that warrant was lost, stolen, destroyed or not received.

If the warrant was lost or stolen after endorsement, do **not** have a DHS-1778 (formerly M-1009) completed. Replace these warrants only if they are later returned uncashed to Treasury.

Services Specialist

If warrant was not received, checks to see if warrant was issued. Use MPS payment Inquiry on STSM or appropriate payroll register.

If not issued, determine reasons why and correct problems.

Suggested methods for identifying reasons why warrant was not issued include: check NA-120 for pended or rejected claims and STSM inquiries on provider or client.

If issued and zeros or blanks appear in the disposition code column:

- a. Instructs the client/provider to contact the post office to verify delivery.

If delivery is verified, but client/provider claims non-receipt, consider the warrant lost or stolen.

If delivery **cannot** be verified, consider the warrant not received.

- b. waits four full mail delivery days from warrant date prior to initiation of stop payment.
- c. obtains information on issued warrant (number and date issued, amount of warrant, payee(s), etc.).

If the warrant was issued and codes 2A, 22, 23, 24, 62, 63 or 64 appear in the disposition code column, **do not** proceed with stop payment. These codes mean the warrant has been returned to Treasury. See procedures for undeliverable warrants returned to Treasury in this item.

If the warrant was issued and code 01 appears in the disposition column, this indicates that the warrant has been cashed. If the client/provider still claims they did not receive and cash the warrant, proceed with stop payment.

Once the stop payment has been requested and the DHS-1778 is received by Warrant Control in central office, Warrant control will initiate form DHS-1354 (formerly M-1009), Affidavit Claiming Forged Endorsement on a State Treasurer's Warrant. See Forgery/Recovery Procedure in this item.

Payee(s)

If the warrant was stolen, file report with police (verification required). **Note:** Lost warrants do not require a police report.

Completes form DHS-1778, Affidavit Claiming Lost, Destroyed, Not Received, or Stolen State Treasurer's Warrant [refer to PAM, Item 500, CIMS STSM manual (CIT) for instructions or Adult Services Manual (ASM) Item 377, Exhibit I, for additional instructions for AFC/HA warrants].

Each copy of the DHS-1778 must be signed in ink in the presence of a notary.

Mutilated (i.e., destroyed) warrants do not require client/provider signature. The fiscal unit supervisor can complete and sign the DHS-1778 on behalf of the client/provider. The remains of the warrant must be attached to the DHS-1354.

Services Specialist

Updates MPS as necessary, e.g., corrected address or, for Home Help only, pay to, mail to codes, by completing form DHS-2351 or DHS-2355.

Enters the stop payment and replacement request on CIMS by:

1. Forwarding the DHS-1778 to the local CIMS unit for input; or
2. Using the FWAR, Warrant Stop Payment Request transaction.
3. Instructions for the FWAR transaction are found in the CIMS File Maintenance Manual (CIF) Item FWAR.
4. Only specialists with a CIMS Operator Status that allows file maintenance can access the FWAR transaction.
5. If using FWAR, screen copy the accepted transaction and sign and date as initiator of the transaction. File Screen copy in case record.
6. The accepted transaction number **must** be entered in Box 3 on the DHS-1778.
7. After CIMS input, distribute the DHS-1778 as follows: promptly send Parts 1 and 2 to Warrant Control in Central Office; give Part 4 to the local fiscal unit; give Part 5 to the client/provider; and file Part 3 in the case record.

Warrant Control Unit

Once the stop payment is requested by the local office, Warrant Control in central office enters a warrant disposition code of 25 (Stop Revenue Requested) on CIMS.

When the DHS-1778 is received and the warrant is canceled, Warrant Control changes the warrant disposition from 25 to 26 (Stop Revenue In Effect).

Once the stop payment takes effect, a DHS-2362C, Services Warrant Rewrite/Disposition Request, will be automatically generated to the local office.

Local Fiscal Unit

Receives the DHS-2362C from central office.

- a. Logs in according to local office Accounting Manual instructions.
- b. Forwards Parts 1 and 2 of the DHS-2362C to services specialist.

Services Specialist

Completes the DHS-2362C to initiate warrant replacement with 10 working days. See CIMS STSM manual (CIT) for DHS-2362C instructions.

- a. Completes a DHS-2351/DHS-2355, if needed, to update CIMS/MPS to reflect current information.
- b. Enters all new information on CIMS/MPS **before** processing the DHS-2362C.
- c. Forwards the DHS-2362C to the local CIMS Unit for input on CIMS.
- d. Receives the DHS-2362C back from the CIMS Unit showing the replacement has been entered on CIMS. (Box 31 and 32 of DHS-2362C should be completed by data entry clerk.)
- e. Forwards Part 1 of the DHS-2362C to the local fiscal unit.
- f. Files Part 2 of the DHS-2362C in the case record.

Local Fiscal Unit

Follows up at the end of each month on DHS-2362Cs not returned from the service specialist.

FORGERY/ RECOVERY PROCEDURE

If the original or replacement warrant has been cashed and has cleared Treasury by the time the Stop Payment reaches

Treasury, form DHS-1354, Affidavit Claiming Forged Endorsement on a State Treasurer's Warrant, must be completed.

The procedure is always initiated by Central Office Warrant Control Unit.

Responsibility

ACTION

Warrant Control Unit

Receives from Treasury copy of cashed warrant.

Initiates a DHS-1354, Affidavit Claiming Forged Endorsement on a State Treasurer's Warrant and sends it, with copy of cashed warrant and cover memo (See RFF 1354, Exhibit II, Cover Memo) to Local Office Fiscal Unit.

Local Office Fiscal Unit

Logs in receipt of the DHS-1354 according to local office Accounting Manual instructions.

Completes the DHS-1354 and forwards it, with copy of cashed warrant to the specialist.

Service Specialist

Contacts the payee(s), and requests that the endorsements on the copy of cashed warrant be viewed at the local office.

Payee(s)

If the payee(s) claims forgery, the DHS-1354 is signed in presence of a notary. Each copy of the DHS-1354 must be signed in ink. Do **not** remove any of the DHS-1354 carbon copies.

Services Specialist

File a photocopy of the signed form and warrant in the case record, and give the client/provider a photocopy of only the form.

Return the DHS-1354 and warrant copy to the local fiscal unit for mailing to Warrant Control.

If the payee fails to keep the appointment, refuses to sign the affidavit, or admits endorsing the original warrant, return the uncompleted DHS-1354 to the local fiscal unit with an explanatory note. If he/she admits endorsing the warrant, obtain his/her signed statement to that effect.

Local Fiscal Unit

Receives the DHS-1354 and a copy of the cashed warrant from the specialist, logs in and forwards them to Warrant Control Unit.

All DHS-1354's are to be returned to the Warrant Control Unit, i.e., signed and unsigned. The Warrant Control Unit monitors outstanding requests via periodic reminder notices to the Local Office Fiscal Unit.

Warrant Control

If the warrant **cannot** be rewritten, notify the specialist via memo (See RFF 1354, Exhibit III, Warrant Replacement Memo).

If the warrant **can** be rewritten, form DHS-2362C, Services Warrant Rewrite/Disposition Request, will be automatically generated to the local office.

Local Fiscal Unit

Receives the DHS-2362C from central office.

- a. Logs in according to Local Office Accounting Manual instructions.
- b. Forwards Parts 1 and 2 of the DHS-2362C to the services specialist.

Services Specialist

If the warrant cannot be rewritten, notify the client/provider. If the client and/or provider disagrees with the decision not to issue a replacement warrant, the client may request a hearing by completing a DHS-18, Request For Hearing.

Administrative Hearings will deny requests for hearings made by providers.

If the warrant can be rewritten, completes the DHS-2362C to initiate a warrant replacement within 10 working days. See Item 195 pgs. 1-3, Exhibit 1 for DHS-2362C instructions.

- a. Completes a DHS-2351/DHS-2355, if needed, to update CIMS/MPS to reflect current information.
- b. Enters all new information on CIMS/MPS **before** processing the DHS-2362C.
- c. Forwards the DHS-2362C to the local CIMS Unit for input on CIMS.
- d. Receives the DHS-2362C back from the CIMS Unit showing a replacement has been entered on CIMS. (Box 31 and 32 of the DHS-2362C should be completed by data entry clerk.)
- e. Forwards Part 1 of the DHS-2362C to the local fiscal unit.
- f. Files Part 2 of the DHS-2362C in the case record.

Local Fiscal Unit

Follows up at the end of each month on DHS-2362Cs not returned from the services specialist.

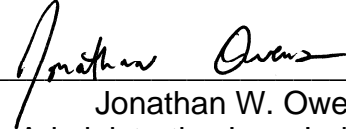
Entire forgery/recovery process may take at least 6-8 months.

Here, after reviewing the policy and the documents submitted, this Administrative Law finds the Department followed policy. Petitioner should have been instructed to file a police report regarding the forged check in addition to completing an affidavit. However, this is not required for Treasury to process the request for a new warrant. While this Administrative Law Judge fails to see enough evidence to support the conclusion reached by the State or the bank, the policy is clear on what can be done regarding reissuing a stolen cashed warrant. The policy clearly indicates the State will not reissue a lost/stolen warrant unless the amount of the warrant stolen is recovered. The State must recover the amount stolen before the State can reissue a new warrant. Therefore, the Department properly denied Petitioner's request for reissuance based upon the stolen amount not being recovered by the Department.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the Department was correct in denying Petitioner's request for a new warrant.

The Department's decision in this regard is, hereby, AFFIRMED.



Jonathan W. Owens
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: February 23, 2011

Date Mailed: February 23, 2011

NOTICE: The law provides that within 60 days of mailing of the above Decision and Order the claimant may appeal the Decision to the probate court for the county in which the petition for adoption was filed. If the adoptee is a resident of the State, the petition may be filed in the probate court for the county in which the adoptee is found. Administrative Hearings, on its own motion, or on request of a party within 60 days of the mailing date of this Decision and Order, may order a rehearing.

JWO/pf

cc:

