

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

IN THE MATTER OF:



Reg. No. 20121278
Issue No. 4060
Case No. [REDACTED]
Hearing Date: November 30, 2011
Wayne County DHS (17)

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 November 30, 2011 from Detroit, Michigan. The Department was represented by [REDACTED], Regulation Agent for the Office of Inspector General. Respondent did not appear at the hearing and it was held in Respondent's absence pursuant to 7 CFR 273.16(e), Mich Admin Code R 400.3130(5), or Mich Admin Code R 400.3187(5).

ISSUE

The issue is whether DHS established a basis for debt collection and/or recoupment based on an alleged overissuance of 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 the mother and caretaker of four children.
3. Respondent provided DHS with a need for CDC benefits based on employment.
4. Respondent was a full-time employee for the United State Post Office.
5. DHS verified that Respondent received \$0 income and therefore worked 0 hours for the following dates: 12/28/03-2/5/05, 1/8/06-9/2/06, and 9/30/07-1/4/08.

6. Despite Respondent's employment absences from, DHS was continually billed full-time CDC hours from Respondent's CDC provider.
7. On 9/30/11, DHS requested a debt collection hearing for \$12,066 in allegedly over-billed CDC benefits.

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 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 IPV occurred, the DHS regulations in effect at the time of the alleged overissuance shall be considered. Concerning whether DHS properly followed IPV and debt collection procedures, the regulations in effect as of 9/2011 (the month of the DHS hearing request) shall be considered. 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 debt collection actions against CDC providers, the reconciliation and recoupment section (RRS) is responsible for collecting and recording provider errors. BAM 725 at 2. Reconciliation and recoupment section staff enters the overissuance into the automated provider recoupment system. *Id.* The system produces a first notice and overpayment detail and acceptance report which are mailed to the child care provider. *Id.* The provider is instructed to review and complete the report and mail it back to reconciliation and recoupment section. *Id.*

In the present case, DHS alleged that CDC benefits were paid on behalf of Claimant based on reported employment by Claimant. DHS stated that many of the CDC benefits paid on behalf of Claimant should not have been paid based on subsequently received information that revealed Claimant was not employed during long stretches. DHS documents revealed that Claimant was continuously employed by ██████████ but that she received no income for the following pay periods: 12/28/03-2/5/05, 1/8/06-9/2/06, and 9/30/07-1/4/08.

DHS has an obligation to determine whether a CDC OI is based on client or provider error. Theoretically, a CDC payment could be made based on the fault of the provider. DHS established sufficient client error in the present case by presenting multiple Assistance Applications (Exhibits 16-47) and CDC Applications (Exhibits 48-67). Most notably, Claimant submitted an Assistance Application and a CDC Application dated 6/17/04 in which she claimed to be employed with ██████████ and needed CDC for that reason. Documents later obtained by DHS from Claimant's employment revealed that Claimant was technically an employee of ██████████, but not working for the prior six months and the following six months (see Exhibits 90-97) from the date of that application.


Claimant's failure to note on either application that she had not worked for several months tends to demonstrate fault by Claimant in the billing of CDC benefits. For good measure, DHS obtained Claimant's CDC provider's employment history and demonstrated that the provider was paid as a full-time CDC provider while working full-time (see Exhibits 98-101). DHS believed this evidence tended to establish that the CDC provider was a sham because it is unreasonable to believe that a person would work a full-time job while providing full-time CDC provider services. This evidence was only slightly persuasive as it is plausible that the provider could have performed both jobs.

Based on the presented evidence, it is found that DHS established client error in the payment of CDC benefits. It must then be determined how much in CDC benefits was over-issued.

DHS stated that Claimant was overpaid \$12,066 in CDC benefits for the periods of 12/28/03-2/5/05, 1/8/06-9/2/06, and 9/30/07-1/4/08. DHS presented multiple budgets and CDC payment history (See Exhibits 104-134). Based on the budgets, an OI of \$12,066 was established for payments made for three different children.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that DHS established a basis for debt collection and/or recoupment against Respondent for \$12,066 in CDC benefits over-issued from 12/28/03-2/5/05, 1/8/06-9/2/06, and 9/30/07-1/4/08. The debt establishment is AFFIRMED.


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

Date Signed: 12/29/11

Date Mailed: 12/29/11

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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