

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

IN THE MATTER OF:



Reg. No: 201237935
Issue No: 6052
Case No: [REDACTED]
Hearing Date: May 30, 2012
Wayne County DHS #17

ADMINISTRATIVE LAW JUDGE: Christopher S. Saunders

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 May 30, 2012 at which Respondent did not appear. This matter having been initiated by the department and due notice having been provided to Respondent, the hearing was held in Respondent's absence in accordance with Bridges Administrative Manual, Item 725.

ISSUE

Whether Respondent committed an Intentional Program Violation (IPV) of the Child Development and Care (CDC) program?

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 completed an application for public assistance on October 16, 2003 (DHS 4583), acknowledging her responsibility to accurately report any changes in her income, resources, living arrangement, or employment to the department within ten days of the change. (Department Exhibits 13-15).
3. The Respondent requested CDC benefits due to her employment. (Department Exhibits 13-15).

4. The department contends that the Respondent was not actually employed as she asserted and therefore had no need for CDC benefits.
6. As a result of the Respondent not having need for CDC benefits, the department claims that the Respondent committed an intentional program violation of the CDC program which resulted in the Respondent receiving an overissuance of CDC benefits in the amount of [REDACTED] for the period of January 11, 2004 through June 10, 2006.
7. Respondent was clearly instructed and fully aware of the responsibility to report true and accurate information to the department.
8. Respondent had not committed any previous intentional program violations.

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 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 \$1000 or more, or
 - the total overissuance amount is less than \$1000, 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.

Clients that commit an intentional program violation are disqualified for a standard disqualification period except when a court orders a different period. Clients are disqualified for periods of one year for the first IPV, two years for the second IPV, lifetime disqualification for the third IPV, and ten years for a concurrent receipt of benefits. BAM 720. This is the respondent's first intentional program violation.

In this case, the department contends that the Respondent received an overissuance of CDC benefits because she falsely stated that she was working and needed CDC benefits due to her employment. The Respondent submitted employment verifications and also receipts from being paid cash. Additionally, the Respondent's alleged employer spoke to a department representative and confirmed that the Respondent worked for her. However, upon investigation by the OIG agent, it was determined that the address listed for the Respondent's employer on the verification of employment forms

does not exist. Furthermore, the Respondent stated that she worked 32-40 hours per week at the Mexican flea market. The OIG investigation concluded that the Mexican flea market is not open 32-40 hours per week. Additionally, the OIG agent went to the flea market where the Respondent stated she worked and the individual present at that particular booth had no knowledge of the Respondent and stated that she did not work there. Based on the testimony of the OIG agent and the evidence presented at the hearing, the Administrative Law Judge finds that the department has shown by clear and convincing evidence that the Respondent committed and intentional program violation of the CDC program. That intentional program violation resulted in the Respondent receiving an overissuance of CDC benefits in the amount of [REDACTED] for the period of January 11, 2004 through June 10, 2006.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds clear and convincing evidence that the Respondent committed an Intentional Program Violation by providing false information to the department regarding her need for CDC benefits.

Therefore, it is HEREBY ORDERED that:

1. The Respondent shall reimburse the department for CDC benefits ineligibly received as a result of her Intentional Program Violation in the amount of [REDACTED].

/s/

Christopher S. Saunders
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: June 4, 2012

Date Mailed: June 4, 2012

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.

CSS/cr

cc: [REDACTED]