

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 201264719
Issue No.: 6052
Case No.: [REDACTED]
Hearing Date: October 9, 2012
County: Genesee

ADMINISTRATIVE LAW JUDGE: Gary F. Heisler

HEARING DECISION

This matter is before the undersigned Administrative Law Judge for an Intentional Program Violation hearing pursuant to MCL 400.9 and MCL 400.37, 7 CFR 273.16, MAC R 400.3130, and MAC R 400.3178 upon the Department of Human Services' request. After due notice, a hearing was held on October 9, 2012. Respondent did not appear. The record did not contain returned mail. In accordance with Bridges Administration Manual (BAM) 720 the hearing proceeded without Respondent.

ISSUE

Whether Respondent committed a Child Development and Care (CDC) Intentional Program Violation (IPV) and whether Respondent received a \$ [REDACTED] over-issuance of Child Development and Care (CDC) benefits between July 1, 2010 and December 31, 2010 which the Department is entitled to recoup?

FINDINGS OF FACT

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

1. On March 27, 2010, Respondent was approved for Child Development and Care (CDC) benefits base don her employment as [REDACTED].
2. On June 10, 2010, an application was submitted by [REDACTED] to [REDACTED] as a [REDACTED]. Respondent was listed as the [REDACTED] and [REDACTED].
3. In September 2010 a reverse wage match indicated that Respondent's employment at [REDACTED] ended.

4. On October 20, 2010, the Department of Human Services Bureau of Children and Licensing issued [REDACTED] a six month [REDACTED].
5. On August 16, 2011, Office of Inspector General Agent Kerr documented that [REDACTED] at [REDACTED] told the agent Respondent did not stop working there but was now the owner.
6. On July 23, 2012, the Office of Inspector General submitted the agency request for hearing of this case.

CONCLUSIONS OF LAW

The Child Development and Care (CDC) 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 provides services to adults and children pursuant to MCL 400.14(1) and 1997 AACR 400.5001-5015.

In this case, the Department has requested a hearing to establish an over-issuance of benefits as a result of an Intentional Program Violation (IPV). The Department alleges that Respondent was not eligible for Child Development and Care (CDC) benefits because she owned a child care center. Department policies provide the following guidance and are available on the internet through the Department's website.

BEM 703 CDC PROGRAM REQUIREMENTS PROGRAM OVERVIEW

The goal of the Child Development and Care (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.

The CDC program may provide a subsidy for child care services for qualifying families when the parent(s)/substitute parent(s) is **unavailable** to provide the child care because of employment, participation in an approved activity and/or because of a condition for which treatment is being received **and** care is provided by an eligible provider.

INTRODUCTION

Eligibility for CDC services exists when the department has established **all** of the following:

- There is a **signed application** requesting CDC services.

- Each parent/substitute parent; see Parent/Substitute Parent section in this item is a member of a valid ELIGIBILITY GROUP.
- Each parent/substitute parent (P/SP) meets the NEED criteria as outlined in this item.
- An eligible provider is providing the care.
- All eligibility requirements are met.

NEED

There are four valid CDC need reasons. Each parent/substitute parent of the child needing care must have a valid need reason during the time child care is requested. Each need reason must be verified and exists only when each parent/substitute parent is unavailable to provide the care because of:

1. Family preservation.
2. High school completion.
3. An approved activity.
4. Employment.

NEED REASONS

1. **Family Preservation**
2. **High School Completion**
3. **Approved Activity**
4. **Employment**

CDC payments may be approved for clients who are employed or self-employed and receive money, wages, self-employment profits or sales commissions within six months of the beginning of their employment.

Note: A parent/substitute parent is not eligible for CDC if his/her only need reason is employment as an unlicensed provider.

The Department policy shown above does not support the Department's assertion that Respondent was not eligible for Child Development and Care (CDC) benefits because she the owner of a child day care.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department has not established by clear and convincing evidence that Respondent received a Child Development and Care (CDC) over-issuance much less an Intentional Program Violation (IPV).

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It is ORDERED that the actions of the Department of Human Services, in this matter, are REVERSED.

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/s/

Gary F. Heisler
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: October 21, 2012

Date Mailed: October 22, 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.

GFH/tb

cc:

