

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

**IN THE MATTER OF:**

[REDACTED]

Reg No.: 2012-65146  
Issue No.: 6052  
Case No.: [REDACTED]  
Hearing Date: September 5, 2012  
Wayne County DHS (31)

**ADMINISTRATIVE LAW JUDGE:** Colleen M. Mamelka

**HEARING DECISION**

This matter is before the undersigned Administrative Law Judge in accordance with 7 CFR 273.16, MCL 400.9, MCL 400.37, and Michigan Admin Code, R 400.3130, on the Department of Human Services' ("Department") request for hearing. After due notice, a telephone hearing was conducted from Detroit, Michigan on Wednesday, September 5, 2012 before Administrative Law Judge, Michael Bennane. The Respondent failed to appear and the hearing was held in Respondent's absence in accordance with Bridge's Administrative Manual ("BAM") 720 (August 2012), p 10. The Department was represented by [REDACTED] regulation agent with the Office of Inspector General ("OIG"). This matter is now before the undersigned for a written decision.

**ISSUE**

Whether the Respondent received an over-issuance of Child Development & Care ("CDC") benefits for the period from November 2009 through May 1, 2011?

**FINDINGS OF FACT**

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

1. The Respondent submitted an application for public assistance seeking Child Development & Care ("CDC") benefits on November 19, 2009. (Exhibit 1, pp. 14 – 17)
2. On December 8, 2009, the Department received a Verification of Employment on behalf of the Claimant providing that she worked full-time (80 hours) earning \$7.75 an hour. (Exhibit 1, pp. 18, 19)

3. On August 30, 2010, the Department received the Respondent's CDC Verification. (Exhibit 1, pp. 22 – 27)
4. On October 29, 2010, the Department received the Respondent's Semi-Annual Contact Report. (Exhibit 1, pp. 20, 21)
5. On or about June 17, 2011, the Department received the Respondent's application for public assistance, seeking in part, CDC benefits. (Exhibit 1, pp. 28 – 46)
6. On July 8, 2011, the Department received the Respondent's CDC application. (Exhibit 1, pp. 47 – 51)
7. The Company that the Respondent worked for was not a registered corporation. (Exhibit 1, pp. 52 – 75)
8. On July 12, 2011, the Department received an affidavit from the Respondent's child care provider stating that she last watched the children in June of 2011; that she watched the children from 3p.m. to 11p.m., Monday through Friday; that she was unaware of any CDC application; and that she started watching the children in August of 2010. (Exhibit 1, p. 76)
9. Pursuant to a Wage History Report, wages were last reported on behalf of the Respondent in 2005. (Exhibit 1, p. 77)
10. For the period from November 1, 2009 through May 1, 2011, \$24,711.00 CDC benefits were paid on behalf of the Respondent's children. (Exhibit 1, pp. 78 – 84)
11. In an email communication, a reported prior child care provider indicated that she stopped watching the Respondent's children in or around May 2010. (Exhibit 1, p. 85)
12. The Department sent Respondent an Intentional Program Violation Repayment Agreement which the Respondent did not sign. (Exhibit 1, pp. 7 – 11)

### **CONCLUSIONS OF LAW**

During the period at issue, Department policies were found in the Bridges Administrative Manual ("BAM"), the Bridges Eligibility Manual ("BEM"), and the Bridges Reference Tables ("RFT").

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 provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, Rules 400.5001 through R 400.5015.

When a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the over-issuance. BAM 700 (December 2011), p. 1. There are three types of over-issuances; agency error, client error, and CDC provider error. BAM 700, pp. 3 – 5; BAM 725 (July 2012), p. 1. The Department requests a hearing for debt establishment and collection purposes. BAM 725, p. 13. A debt collection hearing goes forward only when the repay agreement has not been returned as undeliverable. BAM 700, 725.

In the record presented, the Department [Office of Inspector General] seeks to recoup \$24,711.00 in alleged over-issued CDC benefits for the period from November 2009 through May 1, 2011. The Respondent was reportedly employed by Urban Development. In support of the over-issuance, the Department presented documentation establishing that this employer was not registered with the Department of Licensing and Regulatory Affairs. This evidence does not show that the business does not exist. Instead, it confirms that the business was not incorporated.

The Department submitted a Wage History Report that establishes that the last time an employer reported wages on behalf of the Respondent was in 2004. This evidence is not conclusive that the Respondent was not working. Instead, it establishes that payroll taxes were not reported on behalf of the Respondent.

Other evidence included an affidavit from a prior provider and an internal email communication from the Department regarding a reported conversation with yet another provider. The affidavit confirms that the provider provided services beginning in August of 2010 through June 2011, Monday through Friday, from 3:00p.m. through 11:00p.m. The initial email was generated in response to the other provider's FAP application where she indicated that she last cared for the Respondent's children during the first week of May 2010 and that no monies had been received since mid-April 2010. The email noted that CDC benefits were active. The next email communication summarizes a reported conversation with that provider, where the provider was unable to provide the first "day/date that she watched the [Respondent's] children!!!!!!!!!" The email continues: "She kept changing or could not get it right!!! I will put an end date and all monies will be re-cuped [sic]!!!!!" This evidence shows that the Respondent's children were being cared for from at least 2010 through June 2011. It does not establish that the Respondent was not employed thus ineligible for benefits.

The investigative notes indicate that the Respondent's employer was contacted by the OIG. During this conversation, the employer reported that she was the owner of Urban Development; confirmed the company was not registered with the State of Michigan; and that the Respondent had worked with her for about two or three years. Although requested, an affidavit from this employer was not submitted. This employer also denied completing the May 3, 2010 employment verification. The OIG spoke to the Respondent by telephone where she was reportedly "irate and very upset; and expressed her feeling concerning the OIG contacting her." The OIG requested the Respondent attend an interview, stating it was voluntary. The Respondent did not participate in the interview.

In consideration of the submitted evidence, as detailed above, the Department has not established by clear and convincing evidence that the Respondent received an over-issuance of CDC benefits in the amount of \$24,711.00 for the period from November 2009 through May 2011. The evidence does not demonstrate by clear and convincing evidence, that the Respondent was unemployed. Conversely, the evidence confirms that the Respondent's children were being cared for consistent with someone who was employed. In light of the foregoing, it is found that the Department failed to establish a CDC over-issuance in the amount of \$24,711.00 for the period of November 1, 2009 through May 1, 2011.

#### **DECISION AND ORDER**

The Department failed to establish through clear and convincing evidence, a CDC over-issuance in the amount of \$24,711.00 for the period of November 1, 2009 through May 1, 2011.

Accordingly, it is ORDERED:

The Department's CDC over-issuance determination is REVERSED.

*Colleen M. Mamelka*

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**Colleen M. Mamelka**  
Administrative Law Judge  
For Maura Corrigan, Director  
Department of Human Services

Date Signed: March 18, 2013

Date Mailed: March 18, 2013

**NOTICE:** Michigan Administrative Hearing System (MAHS) 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. MAHS 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. (60 days for FAP cases)

The Claimant may appeal the Decision and Order to Circuit Court within 30 days of the receipt of the Decision and Order or, if a timely request for rehearing was made, within 30 days of the receipt date of the rehearing decision.

Claimant may request a rehearing or reconsideration for the following reasons:

- A rehearing **MAY** be granted if there is newly discovered evidence that could affect the outcome of the original hearing decision.
- A reconsideration **MAY** be granted for any of the following reasons:
  - misapplication of manual policy or law in the hearing decision,
  - typographical errors, mathematical error, or other obvious errors in the hearing decision that effect the substantial rights of the claimant:
  - the failure of the ALJ to address other relevant issues in the hearing decision.

Request must be submitted through the local DHS office or directly to MAHS by mail at  
Michigan Administrative Hearings  
Reconsideration/Rehearing Request  
P. O. Box 30639  
Lansing, Michigan 48909-07322

CMM/cl

cc:

