

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

IN THE MATTER OF:



Registration No: 201214599
Issue No: 6052
Case No: [REDACTED]
Hearing Date: October 20, 2011
Lapeer County DHS

Administrative Law Judge: Corey A. Arendt

HEARING DECISION

This matter is before me in accordance with 7 CFR 273.16, MCL 400.9, MCL 400.37, and 1999 AC, R 400.3130, on the Department of Human Services' (the Department's) request for hearing. After due notice, a hearing was held on April 11, 2012, at which Respondent appeared. The hearing was held in accordance with Bridges Administrative Manual (BAM) 720, pp 9-10. The Department was represented by the Office of Inspector General (OIG).

ISSUE

In dispute is whether Respondent committed an intentional program violation (IPV) involving Child Development and Care (CDC) benefits, thereby receiving an overissuance of benefits that the Department is entitled to recoup.

FINDINGS OF FACT

Based on the clear and convincing evidence pertaining to the whole record, the Administrative Law Judge finds as material fact:

1. The Department's OIG filed a request for hearing to establish an overissuance of CDC benefits received as a result of a determination that Respondent committed an IPV.
2. The Department approved the Respondent for CDC benefits with Michelle Kucharek as a provider from July 5, 2009 through June 16, 2010.
3. Between July 5, 2009 and June 16, 2010 the Respondent received [REDACTED] in CDC benefits.
4. On June 10, 2010, Ms. Kucharek sent the Department a letter. The letter indicated [REDACTED] was contacted by the Respondent to provide day care services for payment but at no time actually provided services.

5. On June 15, 2011, the Department interviewed [REDACTED]. During the interview, [REDACTED] signed an affidavit declaring she never received any money for watching the Respondent's children.
6. Respondent acknowledged she understood her failure to give timely, truthful, complete, and accurate information about her circumstances could result in a civil or criminal action, or an administrative claim, against her. (Department's Exhibit 1)
7. There was no apparent physical or mental impairment present that limited Respondent's ability to understand and comply with her reporting responsibilities.
8. This was the first determined IPV committed by Respondent.

CONCLUSIONS OF LAW

The 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 AACRS R 400.5001-5015.

In the present matter, the Department requested a hearing to establish an overissuance of CDC benefits, claiming that the overissuance was a result of an IPV committed by Respondent.

To be eligible for CDC benefits, the receiving parent must meet a need requirement. 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.

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. When opening a case with zero income, determine the date the employment began and end the authorization the last day of the pay period that is six months from the employment begin date. If money wages, self-employment profits or sales commissions are received within the authorization period,

budget the income and extend the authorization period to coincide with the redetermination date. The specialist should remind these clients of their reporting requirements.

In the present case, the Respondent requested CDC benefits because she was self-employed. The OIG in this matter presented evidence indicating the Respondent's provider was not providing services for the Respondent while the Respondent was receiving money for the alleged services.

The Respondent provided 2009 tax forms to prove she operated a business called Kathy Kleans and a post office box receipt to prove she paid Ms. Kucharek for daycare services.

The 2009 tax forms presented were not signed and were not official tax filings. In addition, the post office box receipt only aided in proving Ms. Kucharek had a post office box. The Respondent did not submit evidence of any payments made to Ms. Kucharek and did not prove the existence of the business Kathy Kleans (invoices, customer receipts, work orders, purchase orders, scheduling slips, client lists etc).

When a client or group receives more benefits than they are entitled to receive, the Department must attempt to recoup the overissuance. BAM 700, p 1. A suspected IPV is defined as 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. [BAM 720, p 1.]

An IPV is suspected by the Department when a client intentionally withheld or misrepresented information for the purpose of establishing, maintaining, increasing, or preventing a reduction of, program eligibility or benefits. BAM 720, p 1. In bringing an IPV action, the agency carries the burden of establishing the violation with clear and convincing evidence. BAM 720, p 1.

Based on the credible testimony and other evidence presented, I have concluded the OIG established, under the clear and convincing standard, that Respondent committed an IPV in this matter, resulting in an overissuance of CDC benefits between the period of July 5, 2009 and June 16, 2010, in an amount of [REDACTED].

DECISION AND ORDER

Based on the above findings of fact and conclusions of law, I find Respondent committed an intentional program violation.

It is therefore ORDERED:

1. Respondent shall reimburse the Department for the CDC benefits ineligibly received as a result of his IPV in the amount of [REDACTED].

/s/_____

Corey A. Arendt
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: April 20, 2012

Date Mailed: April 20, 2012

NOTICE: Respondent may appeal this decision and order to the circuit court for the county in which he / she resides within 30 days of receipt of this decision and order.

CAA/cr

cc:

[REDACTED]