

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

IN THE MATTER OF:



Reg. No.: 2013 24470
Issue No.: 4060
Case No.: [REDACTED]
Hearing Date: April 24, 2013
County: Wayne (17)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37; MCL 400.43 (a); Mich Admin Code, R 400.941 and MCL 24.201, et seq., upon a hearing request by the Department of Human Services (Department) to establish an over issuance (OI) of benefits to Respondent. After due notice, a hearing was held on April 24, 2013.

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 (BAM), Item 725. Other participants included [REDACTED] Regulation Agent, Office of Inspector General.

ISSUE

Did Respondent receive an OI of FIP FAP SDA 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 a recipient of FIP FAP SDA CDC during the period January 2008 through July 2010.
2. The OIG alleges that Respondent received a FIP FAP SDA CDC OI during the period January 2008 through July 2010, due to Department's Respondent's error.

3. A verification of employment was filed on behalf of the Claimant by a homeowner who indicated that Claimant provided direct care to a private person beginning January 1, 2008 ongoing. Exhibit 1 pp. 66-67
4. The Department did not present evidence of who owned the residence where the alleged services were provided and did not determine if the location existed.
5. The Claimant did receive wages in the amount of \$1050 in the third quarter of 2009. Exhibit 1 pp75.
6. The OIG alleged the Claimant received an overissuance of CDC benefits in the amount of \$18,028 for the period January 2008 through July 2010.
7. The Department requested a hearing on January 16, 2013 seeking a finding of overissuance and recoupment of CDC benefits from the Respondent.

CONCLUSIONS OF LAW

Department policies are contained in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), and the Reference Tables Manual (RFT).

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 1999 AC, Rule 400.5001 through Rule 400.5015.

Additionally, the Department did not establish that the Claimant was not employed as a private duty direct care aide for the period January 2008 through July 2010. The Department's proofs did establish that no wages were reported through the work number or other reporting services for the private duty work or other work performed at that time which can indicate either no wages were received or no wages were reported by the Respondent. Although failure to report this income would be a failure to report income so taxes could be assessed, it does not as a fact standing alone establish that no income was received or that the Claimant was not employed. The proofs did not establish who lived at the residence and whether the person listed as the homeowner was indeed the homeowner, facts which may have supported an inference that the employment verification was false or improperly filled out. Under these facts and evidence presented, it must be determined that the Department did not establish by the preponderance of the evidence that the Claimant was not employed as represented by the Verification of Employment filed in this case, and thus did not establish an overissuance of CDC benefits.

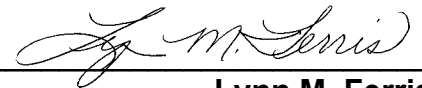
Based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, the Administrative Law Judge concludes that the Department improperly determined that the Respondent received an \$18,028 OI of CDC benefits.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did not make a correct determination to establish a debt for the period January 2008 through July 2010 in the amount of \$18,028.

Accordingly, the Department is REVERSED with respect to the overissuance of \$18,028 for the period January 2008 through July 2010, and it is ordered that the Department's request for finding of overissuance and recoupment of CDC benefits is denied, and

The Department is ORDERED to remove the Overissuance of CDC benefits in the amount of \$18,028 for the period January 2008 through July 2010 from the Claimant's case record. The Department's request for recoupment as regard this claim is DISMISSED with prejudice.



Lynn M. Ferris
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 9, 2013

Date Mailed: May 9, 2013

NOTICE: The law provides that within 60 days from the mailing date of the above hearing 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.

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,

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- 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
Re consideration/Rehearing Request
P. O. Box 30639
Lansing, Michigan 48909-07322

LMF/cl

cc:

