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

IN THE MATTER OF:



Reg. No.: Issue No.: Case No.: Hearing Date: County:

2013-8593 6052

May 21, 2013 Wayne County DHS #17

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

HEARING DECISION

This matter is before the undersigned Admini strative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Departm ent of Human Services (Department) request for a hearing. After due notice, a telephone hearing was held on May 21, 2013 from Lansing, Michigan. The Depart tment was represented by **Matter Matter Matter** Regulation Agent, of the Office of Inspector General (OIG). Respondent did not appear at the hearing and it was held in Respondent's absence pursuant to 7 CF R 273.16(e), Mich Admin Code R 400.3130(5), or Mich Admin Code R 400.3178(5).

ISSUES

Whether Respondent committed an Intentional Program Violation (IPV) and received an over-issuance (OI) of Child Day Care (CDC) benefits that the department is entitled t o recoup?

FINDINGS OF FACT

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

- 1. The Department's OIG filed a hearing request to establish an OI of benefits received by Respondent as a result of Respondent having failed to inform the department that she was unemployed and therefore not eligible to receive Child Day Care payments.
- 2. The OIG h as requested that Respondent be disqualified from receiving program benefits.
- 3. Respondent filed applic ations with the department on 12/07/05 and 3/29/07, acknowledging that she understood her rights and responsibilities to report changes in household circumstances.

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- 4. Respondent received Child Day Care (CDC) benefits from 11/08/07-12/16/08 when her wages had stopped and she was not working during the time period in question.
- 5. Respondent was aware of the responsibility to report changes in her/his residence to the Department.
- 6. Respondent had no apparent physical or m ental impairment that would limit the understanding or ability to fulfill this requirement.
- 7. Respondent received a CDC ove r-issuance in the amount of \$ for the time period of 11/18/07-2/16/08.
- 8. The Department has established that Respondent was not entit led to receive CDC benefits during the relevant time period, and thus committed an IPV.
- 9. This was Respondent's first IPV.
- 10. A notice of hearing was mailed to Respondent at the last known address, where s/he is currently receiving benefit s from the department and wa s not returned by the US Post Office as undeliverable.

CONCLUSIONS OF LAW

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

The Child Development and Care program is established by T itles 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 T itle 45 of the Code of F ederal Regulations, Parts 98 and 99. T he Department of Human Services (DHS or Department) provides services to adults and children pursuant to MCL 400.14(1) and M AC R 400.5001-5015. Depa rtment policies are found in the Bridges Administrative Ma nual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

When a client group receives more benefits than they are entitled to receive, DHS must attempt to recoup the OI. BAM 700.

Suspected IPV means an OI exists for which all three of the following conditions exist:

- The client intentionally failed t o report information or intentionally gave incomplete or inaccurate information needed to make a correct benefit determination, and
- The client was clearly and co rrectly 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.

IPV is sus pected when there is clear and convinc ing evidenc e that the client has intentionally withheld or misr epresented information for t he purpose of establishing, maintaining, increasing or preventing reduc tion of program benefits or eligibility. BAM 720.

The Department's OIG requests IPV hearings for cases when:

- benefit overissuance 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 previ violation, or
 ous intentional program
 - the alleged IPV involves FAP trafficking, or
 - the alleged fraud involves c oncurrent receipt of assistance,
 - the alleged fraud is committed by a state/government employee.

A court or hearing decision that finds a client committed IPV di squalifies that client from receiving program benefits. A disqualified recipient r emains a member of an active group as long as he lives with them. Other eligible gr oup members may continue to receive benefits. BAM 720.

Clients who commit an IPV are disqualified for a standard di squalification period except when a court orders a different period, or except when the over-issuance relates to MA. Refusal to repay will not cause denial of current or future MA if the client is otherwis e eligible. BAM 710. Clients are disqualified for periods of one year for the first IPV, two years for the second IPV, lifet ime disqualification for the th ird IPV, and ten years for a concurrent receipt of benefits. BAM 720.

In the instant case, the department OIG has established that the Respondent received an over issuance of CDC benefits in the amount of **Sector** The department OIG has established by the necessary competent, substantial and material evidence on the record that claimant committed an Intentiona I Program Violation for the Child Day Care Program for which respondent must be disqualified. The department has established that Respondent was aware of the responsibility to report all income and employment to the department. Department policy requires clients to report any change in circumstances that will affect eligibility or benefit amount within ten days. BAM, Item 105, p. 7. Respondent has no apparent physical or mental impairment that limits the understanding or ability to fulfill the reporting responsibilities.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, concludes that:

- 1. Respondent did commit an IPV.
- 2. Respondent did receiv e an OI of program benefits in t he amount of **\$** from the Child Day Care Program.

The Department is ORDERED to initiate recoupment procedures for the amount of for the amount of the second second

It is FURTHER ORDERED that Respondent be personally disqualified from participation in the Food Assistance Program for one (1) year. This disqualific ation period shall begin <u>immediately</u> as of the date of this Order.

<u>/s/</u>

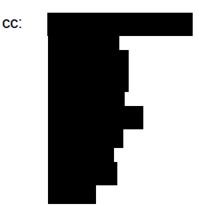
Landis Y. Lain Administrative Law Judge for Maura Corrigan, Director Department of Human Services

Date Signed: May 24, 2013

Date Mailed: May 24, 2013

<u>NOTICE</u>: The law pr ovides 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.

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