

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

IN THE MATTER OF:



Reg. No.: 2013-61300
Issue No.: 4060
Case No.: [REDACTED]
Hearing Date: October 3, 2013
County: Wayne (82-57)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

Upon a hearing request by the Department of Human Services (Department) to establish an overissuance (OI) of benefits to Respondent, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, 400.43a, and 24.201, *et seq.*, and Mich Admin Code, R 400.941, and in accordance with 7 CFR 273.15 to 273.18, 42 CFR 431.200 to 431.250, 45 CFR 99.1 to 99.33, and 45 CFR 205.10. After due notice, a telephone hearing was held on October 3, 2013, from Detroit, Michigan. Participants on behalf of the Department included [REDACTED]

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 Department of Human Services Bridges Administrative Manual (BAM) 725 (August 2012), pp. 13-17.

Participants on behalf of Respondent included .

ISSUE

Did Respondent receive an OI of

Family Independence Program (FIP)

Food Assistance Program (FAP) benefits?

State Disability Assistance (SDA)

Child Development and Care (CDC)

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 benefits from the Department.
2. The Department alleges Respondent received a FIP FAP SDA CDC OI during the period May 1, 2011, through November 30, 2011, due to Department's error Respondent's error.
3. The Department alleges that Respondent received a \$5,812 OI that is still due and owing to the Department.

CONCLUSIONS OF LAW

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

The Child Development and Care (CDC) program is established by Titles IVA, IVE and XX of the Social Security Act, 42 USC 601-619, 670-679c, and 1397-1397m-5; the Child Care and Development Block Grant of 1990, PL 101-508, 42 USC 9858 to 9858q; and the Personal Responsibility and Work Opportunity Reconciliation Act of 1996, PL 104-193. The program is implemented by 45 CFR 98.1-99.33. The Department administers the program pursuant to MCL 400.10 and provides services to adults and children pursuant to MCL 400.14(1) and Mich Admin Code, R 400.5001-.5020.

Additionally, when a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the OI. BAM 700 (July 2013), p. 1. The amount of the OI is the benefit amount the client actually received minus the amount the client was eligible to receive. BAM 715 (February 2013), pp. 1, 5; BAM 705 (February 2013), p. 5.

In this case, the Department alleges that Respondent was issued \$5,812 in CDC benefits between May 1, 2011, and November 30, 2011, that she was not eligible to receive because she did not have a need for CDC benefits during this period. In order to be eligible for CDC benefits, the client must have a valid need for such benefits for reasons of (i) family preservation, (ii) high school completion, (iii) participation in employment preparation and/or training activity or post-secondary education program approved by the Department, and (iv) employment. BEM 703 (April 2011 and October 2011), pp. 1 and 4-10.

In support of its argument that Respondent did not have a need for CDC benefits, the Department testified that Respondent received CDC benefits based on her employment with [REDACTED] but a printout from the Work Number, the Department's data access to clients' employment from participating employers, showed that Respondent was no longer employed with [REDACTED] as of April 27, 2011. An employee wage history showed that [REDACTED] was the last employer to report wages to

the State for Respondent and no wages were reported for Respondent after the second quarter of 2011. The Department also presented evidence that Respondent was not participating in any employment activities in 2011. In light of the evidence that Respondent had received CDC benefits based on her employment at [REDACTED] that Respondent had not reported her loss of employment at [REDACTED] or any new employment to the Department, and the lack of any evidence that Respondent had any other Department-approved need for CDC benefits, the Department has established that Respondent was not eligible for CDC benefits from April 27, 2011, when she lost employment, through November 30, 2011.

The Department presented a benefit summary inquiry showing that, between April 10, 2011, and November 5, 2011, Respondent received \$5,812 in CDC benefits. However, the Work Number report indicates that Respondent's employment ended April 27, 2011. Therefore, Respondent was eligible for the \$164.16 in CDC benefits issued for April 10, 2011, to April 23, 2011. See BEM 703, p. 13 (indicating that CDC eligibility for income eligible clients ends when the need no longer exists). Removing this \$164 CDC benefit from the \$5,812 total results in an OI of \$5,648.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department established a CDC benefit OI to Respondent totaling \$5,648.

DECISION AND ORDER

Accordingly, the Department is AFFIRMED with respect to an OI of CDC benefits totaling \$5,648.

The Department is ORDERED to initiate collection procedures for a \$5,648 OI in accordance with Department policy.



Alice C. Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: October 9, 2013

Date Mailed: October 10, 2013

NOTICE OF APPEAL: 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 or Reconsideration was made, within 30 days of the receipt date of the Decision and Order of Reconsideration or Rehearing Decision.

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).

A Request for Rehearing or Reconsideration may be granted when one of the following exists:

- Newly discovered evidence that existed at the time of the original hearing that could affect the outcome of the original hearing decision;
- Misapplication of manual policy or law in the hearing decision which led to a wrong conclusion;
- Typographical, mathematical or other obvious error in the hearing decision that affects the rights of the client;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

The Department, AHR or the claimant must specify all reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration. A request must be *received* in MAHS within 30 days of the date the hearing decision is mailed.

The written request must be faxed to (517) 335-6088 and be labeled as follows:

Attention: MAHS Rehearing/Reconsideration Request

If submitted by mail, the written request must be addressed as follows:

Michigan Administrative Hearings
Reconsideration/Rehearing Request
P.O. Box 30639
Lansing, Michigan 48909-07322

ACE/pf

cc:

