

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

IN THE MATTER OF:

[REDACTED]

Reg. No: 20135401
Issue No: 6052
Case No: [REDACTED]
Hearing Date: January 17, 2013
Genesee County DHS #6

ADMINISTRATIVE LAW JUDGE: Christopher S. Saunders

HEARING DECISION

This matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and MCL 400.37 upon the Department of Human Services (department) request for a disqualification hearing. After due notice, a telephone hearing was held on January 17, 2013. The Respondent personally appeared and provided testimony.

ISSUE

Whether Respondent committed an Intentional Program Violation (IPV) of the Child Care and Development (CDC) program?

FINDINGS OF FACT

The Administrative Law Judge, based upon the clear and convincing evidence on the whole record, finds as material fact:

1. The department's Office of Inspector General (OIG) filed a hearing request to establish an overissuance of benefits received by Respondent as a result of Respondent having committed an Intentional Program Violation (IPV).
2. Respondent completed an application for public assistance on October 2, 2010 (DHS 4583), requesting child development and care services and acknowledged her responsibility to report any changes in her day care need to the department within ten days. (Department Exhibits 6-10).
3. The Respondent indicated that employment and Work First training comprised her need reasons.
4. The department determined that the Respondent's billed day care hours did not correlate with her WF hours.

5. As a result of the Respondent's WF hours not correlating with the number of hours billed for CDC services, the department contends that the Respondent committed an intentional program violation of the CDC program and that the Respondent received an overissuance of CDC benefits in the amount of \$ [REDACTED] for the period of March 13, 2011 through May 21, 2011. (Department Exhibits 11-25).
6. Respondent has no apparent physical or mental impairment that would limit the understanding or ability to fulfill the reporting responsibilities.
7. Respondent has previously committed two intentional program violations of the CDC program.
8. Respondent was clearly instructed and fully aware of the responsibility to report true and accurate information to the department.

CONCLUSIONS OF LAW

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 of Human Services (DHS or Department) provides services to adults and children pursuant to MCL 400.14(1) and MAC R 400.5001-5015. Department policies are found in the Bridges Administrative Manual (BAM), the Bridges Eligibility Manual (BEM), Reference Table Manual (RFT), and the Bridges Reference Manual (BRM).

In this case, the department has requested a hearing to establish an overissuance of benefits as a result of an IPV. The department's manuals provide the following relevant policy statements and instructions for department caseworkers.

When a customer client group receives more benefits than they are entitled to receive, the department must attempt to recoup the overissuance. BAM 700. A suspected intentional program violation means 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.

The department suspects an intentional program violation when the client has intentionally withheld or misrepresented information for the purpose of establishing, maintaining, increasing, or preventing reduction of program benefits or eligibility. There must be clear and convincing evidence that the client acted intentionally for this purpose. BAM 720.

The department's Office of Inspector General processes intentional program hearings for overissuances referred to them for investigation. The Office of Inspector General represents the department during the hearing process. The Office of Inspector General requests intentional program hearings for cases when:

- benefit overissuances 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 previous intentional program violation, or
 - the alleged IPV involves FAP trafficking, or
 - the alleged fraud involves concurrent receipt of assistance,
 - the alleged fraud is committed by a state/government employee.

A court or hearing decision that finds a client committed an intentional program violation disqualifies that client from receiving program benefits. A disqualified recipient remains a member of an active group as long as he lives with them. Other eligible group members may continue to receive benefits. BAM 720.

In the case at hand, the department contends that the Respondent's CDC payments exceeded her CDC need. The department contends that the Respondent did not have a need for CDC services even when those services were billed. The Respondent testified that the provider actually submitted the hours and that she did not remember verifying those hours. Additionally, the Respondent testified that she thought that doing job search for WF was an approved activity for CDC. Given the Respondent's testimony and the fact that the provider was the one responsible for submitting bills to the department, this Administrative Law Judge does not find that the department has presented clear and convincing evidence that the Respondent committed an intentional program violation of the CDC program.

However, the Respondent erred by assuming that job search was an approved activity and by not verifying the hours submitted by her provider. The Respondent's error then resulted in an overissuance of CDC benefits. Therefore, the Respondent received an overissuance of CDC benefits in the amount of \$ [REDACTED] for the period of

March 13, 2011 through May 21, 2011. Based on policy, the department is required to recoup that overissuance even if the overissuance results from client error and not an intentional program violation. BAM 700. Therefore, the department is required to recoup the overissuance in this matter.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, finds that the department has not shown clear and convincing evidence that the Respondent committed an Intentional Program Violation. The department's claimant to establish an intentional program violation is **HEREBY DISMISSED**.

However, the Administrative Law Judge does find that the Respondent was overissued CDC benefits, and there is a current balance due and owing to the department in the amount of \$ [REDACTED]. Therefore, the Respondent received an overissuance of CDC benefits as a result of client error in the amount of \$ [REDACTED].

Accordingly, the Administrative Law Judge **ORDERS** that the Respondent shall reimburse the department for CDC benefits ineligibly received, and the department shall initiate collection procedures in accordance with department policy.

/s/ _____
Christopher S. Saunders
Administrative Law Judge
for Maura D. Corrigan, Director
Department of Human Services

Date Signed: February 6, 2013

Date Mailed: February 7, 2013

NOTICE: The law provides 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.

CSS/cr

cc:

[REDACTED]