

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 2013-68575
Issue No(s): 6006
Case No.: ██████████
Hearing Date: December 9, 2013
County: Oakland (04)

ADMINISTRATIVE LAW JUDGE: Zainab Baydoun

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 December 9, 2013, from Detroit, Michigan. Participants on behalf of the Department included ██████████, Regulation Agent with the Office of Inspector General (OIG).

☒ Participants on behalf of Respondent included Respondent, ██████████.

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 January 1, 2009 through December 5, 2009, due to
☐ Department's error ☒ Respondent's error.
3. The Department alleges that Respondent received a \$24,502 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.

The Department is requesting a program recoupment of benefits due to Respondent allegedly receiving CDC benefits without a need. 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 (July 2013), pp 1, 5; BAM 705 (July 2013), p 5. A client CDC error OI occurs when the client receives more benefits than they were entitled to because the client gave incorrect or incomplete information to the Department. BAM 715, p.1.

At the hearing, the Department contended that it was seeking recoupment of CDC benefits totalling [REDACTED] issued to Respondent between January 1, 2009, and December 5, 2009, because she was not eligible for CDC benefits during that time. In order to be eligible for CDC benefits, each parent must have a need for such benefits. BEM 703 (July 2013), p 1. A valid need exists if the parent is unavailable to provide the care because of family preservation, high school completion, an approved activity or employment. BEM 703, pp 3-4, 5-12. The need must be verified by the Department. BEM 703, p 12.

At the hearing, the Department presented the CDC application submitted by Respondent on [REDACTED] as well as the DHS 1171-Assistance Application from April 8, 2009, on which Respondent indicated she was employed as a housekeeper at [REDACTED]. The Department also presented Respondent's Semi-Annual Contact Report for her Food Assistance Program (FAP) case from September 24, 2009, on which she again reported her employment at Airmark and her attendance in college.

The Department established that Respondent was originally receiving CDC benefits because she was employed. 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. BEM 703, p. 11. The Department contended that Respondent misrepresented the circumstances of her eligibility for CDC by continuing to report that she was employed and earning income, despite no income being found through the wage match, Work Number or FEE investigation.

In support of its case, the Department stated that Respondent's employment at [REDACTED] ended in January 2009, based on information obtained from the Work Number. The Department alleged that Respondent falsified Verification of Employment forms and continued to report her employment at [REDACTED] until October 2009. The Department testified that the business telephone number listed on the Verification of Employment for [REDACTED] was Respondent's phone number. Other misspellings on the form also suggest that the Verification of Employment form was completed by Respondent, as opposed to her employer, as required. The Work Number and Verification of Employment forms were provided at the hearing for review.

In October 2009, Respondent began reporting employment as a distributor with [REDACTED]. Respondent submitted a Verification of Employment with [REDACTED] on which she indicated she works 25 hours per week and is paid [REDACTED] per hour. Earnings from [REDACTED] were not found on the Work Number and information obtained from [REDACTED] via a subpoena revealed that Respondent is an independent contractor and only gets paid when she places an order, as opposed to the payment type and frequency reported on the Verification of Employment. As of August 2010, Respondent had only placed a total of eight orders.

Respondent testified that she was employed at [REDACTED] the beginning of the year and that she was employed at [REDACTED] at the end of the year. Respondent stated that she was hospitalized and ill for four months, so she was not earning income. The months for which Respondent was ill, however, were prior to the alleged OI period. Respondent further stated that she does not recall when her employment at [REDACTED] ended and could not provide more specific details regarding other dates of significance. Respondent testified that her employer completed the Verification of Employment form for [REDACTED] forgot to include a phone number, so she had her sister fill in a phone number before submitting it to the Department. Additionally, Respondent stated that she was attending school for two hours during the morning and two hours in the evening, but because she stayed on campus all day for tutoring and to study, the CDC provider watched the children all day. The Department stated that credit was given for Respondent's attendance at school for only the hours that she is in classes and not the time for which she spends on campus studying.

The Department presented a CDC payment issuance summary to establish the amount it was seeking to recoup. The Department testified that it was seeking an overissuance for CDC benefits paid on Respondent's behalf between January 1, 2009, and December

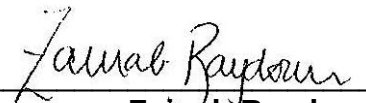
5, 2009. After further review of the evidence, between January 4, 2009, and May 23, 2009, the Department issued CDC benefits on Respondent's behalf for five children totaling [REDACTED] and between May 24, 2009, and December 5, 2009, [REDACTED] in CDC benefits were issued.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that after further review of the Work Number, Verification of Employment forms, testimony and other relevant evidence, the Department did establish that Respondent misrepresented her employment and received a CDC benefit OI totaling [REDACTED]

DECISION AND ORDER

Accordingly, the Department is AFFIRMED.

The Department is ORDERED to initiate collection procedures for a [REDACTED] OI in accordance with Department policy.



Zainab Baydoun

Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: January 7, 2014

Date Mailed: January 7, 2014

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.

2013-68575/ZB

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

ZB/tm

cc:

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]