

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

IN THE MATTER OF:

████████████████████
████████████████████
████████████████████

Reg. No.: 2013-68565
Issue No(s): 6006
Case No.: 1 ██████████
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, Angela Johnson.

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 August 1, 2009 through October 24, 2009, due to
 Department's error Respondent's error.
3. The Department alleges that Respondent received a [REDACTED] 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.

At the hearing, the Department testified that it was seeking recoupment of CDC benefits totalling [REDACTED]. The Department contended that Respondent was not eligible for CDC benefits during the alleged fraud period because she had no need 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.

In this case, the Department established that Respondent was originally receiving CDC benefits because she was participating in an approved activity through the Work First/JET program. The Department contended that Respondent continued to receive CDC benefits while being deferred from participation in Work First/JET. The eligibility for CDC benefits for families receiving FIP ends when the family no longer participates in an approved activity or the need no longer exists. BEM 703, pp. 10-11. Thus, Respondent lost her eligibility for CDC benefits when she stopped attending Work First/JET due to her deferral.

Respondent testified that she provided the Department with a note from her doctor informing the Department that she was unable to attend Work First. Respondent stated that the Department should have been made aware that her need ended and that she was no longer attending Work First. The Department is still authorized to pursue recoupment on an overissuance due to agency error, however. BAM 700;BAM 705;BAM 725. Respondent further testified that during the time period at issue, she was pregnant and was informed that her pregnancy was high risk. Respondent confirmed that she continued to take her children to the CDC provider five days per week while she was deferred from participation in Work First.

The Department presented a benefit insurance 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 August 1, 2009, and October 24, 2009. The Department testified that it was giving Respondent credit for [REDACTED] hours of approved CDC benefits for the period of August 2, 2009, through August 29, 2009, and that it was not seeking to recoup the full amount issued for those periods, however, it remained unclear exactly what amount the Department was seeking to recoup for that period and what amount Respondent was approved for due to her participation in approved work activities. After further review of the evidence presented by the Department, Respondent participated in her approved work activity through August 28, 2009, and submitted a doctor note excusing her from participation in work activities on September 4, 2009, thus making her ineligible for CDC benefits after that date.


Therefore, the Department is not entitled to recoup any CDC benefits issued between [REDACTED], as there was insufficient evidence presented to establish that Respondent received an OI during that time. During the four pay periods of [REDACTED] to [REDACTED] the Department issued [REDACTED] in CDC benefits.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did establish a CDC benefit OI to Respondent 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.

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]