


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



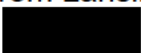
IN THE MATTER OF:



Reg. No.: 2012-63738
Issue No(s): 6006
Case No.: 
Hearing Date: February 11, 2014
County: Wayne County DHS #55

ADMINISTRATIVE LAW JUDGE: Colleen Lack

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 February 11, 2014, from Lansing, Michigan. Participants on behalf of the Department included   Lead Agent, OIG office.

Respondent did not appear. The DHS-828, Notice of Debt Collection Hearing was not returned as undeliverable. 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 (7-1-2013), pp. 16-22.

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 August 1, 2006, through July 5, 2007, 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 t o 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 OIG Lead Agent testified that address the Notice of Debt Collection hearing was sent to the Respondent at was her address of record with the Department at the time the Department requested the hearing in July 2012. The OIG Lead Agent testified that when he checked again the morning of the February 11, 2014 telephone hearing proceedings, that the Respondent's address had been updated. However, the OIG Lead Agent was not able to tell when the Respondent's address was updated with the Department. Further, the DHS-828, Notice of Debt Collection Hearing was not returned as undeliverable. Accordingly, the hearing was held in Respondent's absence in accordance with BAM 725 (7-1-2013), pp. 16-22.

When a client group receives more benefits than it is entitled to receive, DHS must attempt to recoup the overissuance (OI). BAM 700, p 1 (12-1-2011). An overissuance (OI) is the amount of benefits issued to the client group or CDC provider in excess of what it was eligible to receive. For FAP benefits, an OI is also the amount of benefits trafficked (traded or sold). BAM 700, p 1 (12-1-2011).

An agency error OI is caused by incorrect action (including delayed or no action) by DHS staff or DIT staff or department processes. BAM 700, p 3 (12-1-2011). If unable to identify the type of OI, the Department records it as an agency error. BAM 700, p 3 (12-1-2011).

A client error OI occurs when the client received more benefits than they were entitled to because the client gave incorrect or incomplete information to the department. BAM 700, p 5 (12-1-2011).

A Claimant must report changes in circumstance that potentially affect eligibility or benefit amount. Changes must be reported within 10 days of receiving the first payment reflecting the change. BAM 105, p.7 (12/1/2011).

Client and Agency error OIs are not pursued if the estimated OI amount is less than \$125 per program. BAM 700, p 7 (12-1-2011).

The Department of Human Services (DHS) may provide payment for child care services for qualifying families when the parent(s)/substitute parent(s) is unavailable to provide the child care because of employment, education and/or because of a health/social condition for which treatment is being received and care is provided by an eligible provider. Program Eligibility Manual (PEM) 703 p.1 (7-1-2006) Certain specified relatives can be enrolled as a relative care provider. PEM 704, pp. 2-3 (7-1-2006)

There are four CDC need reasons. Each parent/substitute parent of the child needing care must have a valid need reason during the time child care is requested. Each need reason must be verified and exists only when each parent/substitute parent is unavailable to provide the care because of: 1) family preservation, 2) high school completion, 3) Michigan Works Agency approved activity, 4) employment. PEM 708, p.3 (7-1-2006)

The child care need calculation is based on a "best estimate" of the Parent/Substitute Parent's work or approved activity schedule. PEM 710, p. 1 (7-1-2006) Need is determined at application, redetermination, and when a change in work or activity hours is reported. PEM 710, p.1 (7-1-2006)

Here, the Department contends that Respondent received an OI of CDC benefits due to the Respondent's continuing to receive CDC benefits when she was not attending Work First and when the CDC provider was hospitalized. On a June 2006 application for other benefit programs, the Respondent reported she needs or currently pays for child care services for two children based on Michigan Works Agency or other approved education or training. Accordingly, the ongoing CDC need determination was based on the Respondent's reported participation with Work First. The Work First documentation establishes that the Respondent did not attend Work First from July 18, 2006 through May 31, 2007. Additionally, it was verified with the Administrator of the nursing home that the Respondent's enrolled CDC provider was admitted to the facility on March 15, 2007, released on June 29, 2007, and could not have provided child care for anyone during that time. The OIG Lead Agent explained that the CDC pay period that June 29, 2007 fell within did not end until July 5, 2007. Accordingly, the Department determined the Respondent received an OI of CDC benefits for the period of August 1, 2006 through July 5, 2007.

This Administrative Law Judge has carefully considered and weighed the testimony and other evidence in the record. The record evidence shows that the Respondent received on OI of CDC benefits during the period of August 1, 2006 through July 5, 2007 based on the combination of not attending Work First from July 18, 2006 through May 31, 2007 and the enrolled CDC relative provider being unable to provide the child care from March 15, 2007 through June 29, 2007, when the provider was admitted to a nursing home.


The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did did not establish a FIP FAP SDA CDC benefit OI to Respondent totaling \$ [REDACTED]

DECISION AND ORDER

Accordingly, the Department is

- AFFIRMED.**
- REVERSED.
- AFFIRMED IN PART with respect to _____ and REVERSED IN PART with respect to _____.

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



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

Date Signed: February 19, 2014

Date Mailed: February 19, 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

CL/hj

cc:

