

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

IN THE MATTER OF:

██████████
██████████
██████████

Reg. No.: 2014 6246
Issue No(s): 6006
Case No.: ██████████
Hearing Date: January 27, 2014
County: Wayne (17)

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

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 January 27, 2014, from Detroit, Michigan. Participants on behalf of the Department included ██████████ Regulation Agent, Office of Inspector General.

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 (7/1/13), pp. 13-17.

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 requested a hearing on October 17, 2013.
3. The Department alleges Respondent received a
 FIP FAP SDA CDC
OI during the period March 20, 2010 through September 30, 2011 due to
 Department's error Respondent's error.
4. The Department alleges that Respondent received an \$18,079 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).

00.3151-.3180.

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 \$18,079 in CDC benefits between March 20, 2010 and September 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, pp 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 print out from the Work Number, the Department's data access to clients' employment from participating employers, showed that Respondent was last employed in 2009 with the [REDACTED] and no reporting was

made with regard to [REDACTED]. The Respondent claimed to be working for her mother's business, however the Verification of Employment completed by the Respondent's mother showed Respondent working from 10am to 2pm, three days a week, for a total of 12 hours per week. The Respondent received day care for 9 hours daily. Exhibit 1 pp.39 – 63.

On July 12, 2012, after the Verification of Employment was completed, the Respondent's mother, [REDACTED] the Respondent's alleged employer, advised the Department in writing that "under previous direction of a case worker it was suggested that [REDACTED] use me ([REDACTED]) as her employer, since I being her mother owned a business and give her money. What I give [REDACTED] is gifted since she is my daughter. Therefore, I hold no claims to any set hours paid on [REDACTED] behalf to a day care. In 2010 and beyond there is no set hours or pay her work is only by sales calls to purchase. Her pay is a gift by me only as her mother." The Agent also presented evidence that the Respondent's mother advised her in a telephone conversation that the Respondent was working full time for her, a fact not supported by the verification of employment or her above-written statement.

In light of the evidence that Respondent had received CDC benefits based on her employment at [REDACTED], which alleged employment was not full time and subsequently was brought into question by the Respondent's mother and alleged employer in her July 12, 2012 written communication to the Department which suggests that any remuneration from employment was a gift not earnings, it is determined that there was sufficient evidence that Respondent had no need for CDC benefits. The Department's evidence supported the conclusion that the Respondent was not actually working for her mother and this evidence was not rebutted by any evidence of pay stubs or testimony of the Respondent or her mother. Therefore it is determined that the Department has established that Respondent was not eligible for CDC benefits from March 20, 2010 through September 30, 2011.

The Department presented a benefit summary inquiry showing that, between March 20, 2010 and September 30, 2011, Respondent received \$18,079 in CDC benefits. However, the Work Number report indicates that Respondent last worked in 2009 and the Department established that the Respondent had not demonstrated need during the period in question. Therefore, Respondent was not eligible for the \$18,079 in CDC benefits. See BEM 703, p 13 (indicating that CDC eligibility for income eligible clients ends when the need no longer exists).

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 \$18,079.

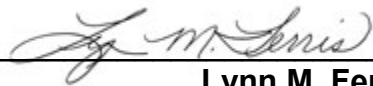
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did did not establish a FIP FAP SDA CDC benefit OI to Respondent totaling \$18,079.

DECISION AND ORDER

Accordingly, the Department is

AFFIRMED.

The Department is ORDERED to initiate collection procedures for an \$18,079 OI in accordance with Department policy.



Lynn M. Ferris
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 Respondent 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 Respondent 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

2014-6246/LMF

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

LMF/cl

cc: [REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED])