

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

IN THE MATTER OF:



Reg. No.: 2014-33036
Issue No.: 6004
Case No.: [REDACTED]
Hearing Date: May 6, 2014
County: Saginaw

ADMINISTRATIVE LAW JUDGE: Landis Y. Lain

HEARING DECISION

Upon the request for a hearing by the Department of Human Services (Department), this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, and in accordance with Titles 7, 42 and 45 of the Code of Federal Regulation (CFR), particularly 7 CFR 273.16, and with Mich Admin Code, R 400.3130 and R 400.3178. After due notice, a telephone hearing was held on May 6, 2014 from Lansing, Michigan. The Department was represented by [REDACTED], Regulation Agent of the Office of Inspector General (OIG).

Respondent did not appear at the hearing and it was held in Respondent's absence pursuant to 7 CFR 273.16(e), Mich Admin Code R 400.3130(5), or Mich Admin Code R 400.3178(5).

ISSUE

Whether Respondent received an over issuance of the Adoption Support Subsidy Program benefits that the Department is entitled to recoup?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. The Department seeks a recoupment of benefits due to the Respondent's failure to report a change in circumstances.
2. Respondent received an Adoption Support Subsidy for the adoption of the minor child, Carlos Rivera.

3. On July 21, 2005, Respondent acknowledged her rights and responsibilities by signing the FIA-4113, – Adaption Support Subsidy/Non-recurring Adoption Expenses Agreements.
4. On February 24, 2006, Respondent also signed the Adoption Subsidy Payment Request.
5. Respondent subsequently abandoned the child without a care plan when she moved to the [REDACTED].
6. On November 28, 2012, Respondent's [REDACTED] of her [REDACTED] was the focus of a [REDACTED].
7. It was determined that Respondent's [REDACTED] remained in the [REDACTED] [REDACTED] lived with his [REDACTED] for approximately 2 years. Prior to residing with his [REDACTED] he had been left with Respondent's [REDACTED] when she relocated to the [REDACTED].
8. On December 13, 2012, a petition seeking the termination of the Respondent's parental rights as they pertain to [REDACTED] was filed by the protective services worker.
9. On February 14, 2013, all the allegations cited on the petition were found to be true and the Respondent's paternal rights were terminated by [REDACTED].
10. Respondent received Adoption Support Subsidy monies for the care and provision of [REDACTED] in the amount of \$ [REDACTED] between the dates of March 1, 2010 to February 28, 2013.
11. Respondent relocated to the [REDACTED] in 2010 and left [REDACTED] with relatives.
12. Respondent did not provide guardianship paperwork for the child's caretaker and there was no care plan in place for the child, [REDACTED]. [REDACTED] caretakers did not receive any financial assistance while caring for [REDACTED].

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), Department of Human Services Reference Tables Manual (RFT), and Department of Human Services Emergency Relief Manual (ERM).

The regulations governing the hearing and appeal process for applicants and recipients of public assistance in Michigan are found in the Michigan Administrative Code, MAC R 400.901-400.951. An opportunity for a hearing shall be granted to an applicant who requests a hearing because his or her claim for assistance has been denied. MAC R

400.903(1). The following policies must be used when an administrative hearing regarding adoption support subsidy, medical subsidy or nonrecurring adoption expenses is requested. Bridges Administrative Manual (BAM) 600 policy does not apply to adoption subsidy cases. AAM, Item 700, page 1

The Adoption Subsidy program is established by MCL 400.115, *et seq.*, and is administered by the Department of Human Services (formerly Family Independence Agency (the Department or agency) pursuant to MCL 400.10, *et seq.* Department policies regarding Adoption Subsidy are found in the Services Manual (SM). The federal law upon which Michigan law is based is Title IV-E of the Social Security Act, Section 473(c). Administrative Law Judge Landis Y. Lain for the Michigan Administrative Hearings System (MAHS) conducts the hearing and completes this decision.

The State of Michigan administers three Adoption Support Subsidy programs: Adoption Support Subsidy; Adoption Medical Subsidy; and Non-Recurring Adoption Expenses Reimbursement. The purpose of support of medical subsidies is to remove financial barriers to the adoption of Michigan foster children with special needs as defined by MCL 400.115f. The purpose of the Non-Recurring Adoption Expense Reimbursement Program is to assist in paying out-of-pocket expenses of adoption of special needs children. Based on each individual child's situation and needs, one or more of the subsidy benefits may be available to support their adoption. Some children do not qualify for any subsidy program based on their individual circumstances. Subsidy is available without respect to the income of the adopted parent. AAM 100, page 1. Funding for this program is through state funds. AAM, Item 100, page 1

- Adoption Support Subsidy - Eligibility details for this program are defined in federal law (42 USC 673), Michigan law (MCL 400.115f-m.), and Department of Human Services (DHS) policy AAM 200. Funding for this program is through title IV-E and state funds.
- Nonrecurring Adoption Expenses Reimbursement - Eligibility details for this program are defined in federal law (42 USC 673), Michigan law (MCL 400.115f-m.) and DHS policy AAM 300 and 310. Funding for this program is through title IV-E funds.

In post adoption circumstances, the adoptive parent(s) must notify the adoption subsidy office, in writing, no later than 30 days after:

- The child is no longer the legal responsibility of the adoptive parent(s).
- The adoptive parent(s) are no longer providing any support for the child.
- The child becomes an emancipated minor.
- The child marries.

- The child enlists in the military.
- The child dies.

Recoupment procedures will be followed for changes not reported timely that result in an overpayment. AAM, 650, page 1

If a hearing request is filed timely and program benefits are continued, repayment of funds will be required if any of the following occur:

- The hearing request is later withdrawn.
- MAHS denies the hearing request.
- The petitioner or AHR fails to appear for the hearing and MAHS gives written instruction to proceed.
- The hearing decision upholds the Department's decision.

The repayment will be calculated from the date the payments would have stopped to the date the negative action is subsequently effective. AAM 700, page 5.

Recoupment for overpayments will be pursued retroactively to the date that eligibility ceased to exist. AAM, 140.

In the instant case, the Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department acted in accordance with Department policy when it determined that Respondent abandoned the [REDACTED] in the state of Michigan when she moved to the state of [REDACTED]. Respondent was not caring for the [REDACTED] or providing financial support for the [REDACTED] and therefore was not eligible to continue to receive Adoption Support Subsidy for the [REDACTED].

Additionally, the Department acted in accordance with Department policy when it determined that Respondent continued to receive Adoption Support Subsidy in the amount of \$ [REDACTED] for the provision of care of the [REDACTED] but did not provide said care nor make appropriate provision for the care of the [REDACTED].

The Department is entitled to recoup Adoption Support Subsidy benefits in the amount of \$ [REDACTED] from Respondent based upon her [REDACTED].

DECISION AND ORDER

Accordingly, the Department's decision is AFFIRMED.

THE DEPARTMENT IS ORDERED TO BEGIN DOING THE FOLLOWING, IN ACCORDANCE WITH DEPARTMENT POLICY AND CONSISTENT WITH THIS HEARING DECISION, WITHIN 10 DAYS OF THE DATE OF MAILING OF THIS DECISION AND ORDER:

1. The Department is ORDERED to institute the recoupment process against Respondent [REDACTED] for the over issued Adoption Support Subsidy benefits in the amount of \$ [REDACTED]



Landis Y. Lain
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: 5/16/14

Date Mailed: 5/16/14

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 Respondent;
- Failure of the ALJ to address in the hearing decision relevant issues raised in the hearing request.

2014-33036/LYL

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

LYL/tb

cc:

