

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-015450
Issue No.: 6001
Case No.: [REDACTED]
Hearing Date: December 09, 2014
County: Berrien

ADMINISTRATIVE LAW JUDGE: Kevin Scully

HEARING DECISION

Following Claimant's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 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, 2014, from Lansing, Michigan. Participants on behalf of Claimant included [REDACTED]. Participants on behalf of the Department of Human Services (Department) included [REDACTED], [REDACTED], [REDACTED], and [REDACTED].

ISSUE

Did the Department properly sanction the Claimant's Child Development and Care (CDC) benefits?

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 Claimant was a Child Development and Care (CDC) recipient from September 11, 2011, through June 16, 2012.
2. The Claimant was found to have committed an intentional program violation (IPV) for the Food Assistance Program (FAP), the Family Independence Program (FIP), and the Child Development and Care (CDC) program on October 20, 2014.
3. On October 20, 2014, the Department notified the Claimant that she was disqualified from the Child Development and Care (CDC) program as of November 2, 2014.
4. On October 31, 2014, the Department received the Claimant's request for hearing protesting the Child Development and Care (CDC) disqualification.

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 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.

Suspected intentional program violation (IPV) means an overissuance exists for which all three of the following conditions exist:

- The client intentionally failed to report information or intentionally gave incomplete or inaccurate information needed to make a correct benefit determination, and
- The client was clearly and correctly instructed regarding his or her reporting responsibilities, and
- The client has no apparent physical or mental impairment that limits his or her understanding or ability to fulfill their reporting responsibilities. Department of Human Services Bridges Administrative Manual (BAM) 720 (October 1, 2014), pp 1-22.

IPV is suspected when there is clear and convincing evidence that the client or CDC provider has intentionally withheld or misrepresented information for the purpose of establishing, maintaining, increasing or preventing reduction of program benefits or eligibility. BAM 720.

An intentional program violation (IPV) may be established by a court decision, which obligates the Department to seek recoupment of the overissued benefits as well as refer the client for disqualification. BAM 720.

In this case, the Claimant was a Child Development and Care (CDC) recipient from September 11, 2011, through June 16, 2012. The Claimant was found to have committed an intentional program violation (IPV) for the Food Assistance Program (FAP), the Family Independence Program (FIP), and the Child Development and Care (CDC) programs. On October 20, 2014, the Department notified the Claimant that she was disqualified from the Child Development and Care (CDC) program as of November 2, 2014.

The Department had previously disqualified the Claimant from the Food Assistance Program (FAP) and Family Independence Program (FIP) programs in May of 2014, based on the same misconduct, but the Child Development and Care (CDC) needed to

be referred to the Department of Education before the disqualification could be implemented.

The Claimant testified that she assumed that she had been disqualified from the Child Development and Care (CDC) program in May of 2014, and has not attempted to receive CDC benefits since then. The Claimant argued that is not fair to begin her Child Development and Care (CDC) sanction in November because she had already served a portion of her disqualification period.


This Administrative Law Judge finds that the Claimant was found to have committed an intentional program violation (IPV) by a court, and the Michigan Administrative Hearing System (MAHS) is not a proper venue to appeal this decision.

Furthermore, having been notified that the Claimant did commit an intentional program violation for the Child Development and Care (CDC) program, the Department was acting in accordance with policy when it implemented her disqualification. The fact that her disqualification from other program categories did coincide with the Child Development and Care (CDC) disqualification did not violate the Claimant's rights.

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 disqualified the Claimant from the Child Development and Care (CDC) effective November 2, 2014.

DECISION AND ORDER

Accordingly, the Department's decision is **AFFIRMED**.



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

Date Signed: **12/16/2014**

Date Mailed: **12/16/2014**

KS/las

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides, or the circuit court in Ingham County, within 30 days of the receipt date.

A party may request a rehearing or reconsideration of this Hearing Decision from the Michigan Administrative Hearing System (MAHS) within 30 days of the mailing date of this Hearing Decision, or MAHS may order a rehearing or reconsideration on its own motion.

MAHS may grant a party's Request for Rehearing or Reconsideration 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 party requesting a rehearing or reconsideration 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 this Hearing Decision is mailed.

A written request may be faxed or mailed to MAHS. If submitted by fax, 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

cc:

