

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 14-010836
Issue No.: 6006
Case No.: [REDACTED]
Hearing Date: April 29, 2015
County: Bay

ADMINISTRATIVE LAW JUDGE: Vicki Armstrong

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; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on April 29, 2015, from Lansing, Michigan. Participants on behalf of Claimant included her husband, [REDACTED]. Participants on behalf of the Department of Health and Human Services (Department) included Recoupment Specialist [REDACTED].

ISSUE

Did the Department properly find Respondent received an overissuance of \$4,677.51 in 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. Respondent was receiving CDC benefits at all times pertinent to this hearing. (Hearing Summary)
2. As a result of receiving Respondent's Redetermination on April 23, 2010, the Department discovered it had erred by failing to budget Respondent's children's RSDI income.
3. Respondent received \$ [REDACTED] in CDC benefits during the time period of November 8, 2009, through May 8, 2010. If the RSDI income had been properly budgeted by the Department, Respondent would not have been eligible to receive CDC benefits.
4. The Department failed to verify or properly budget Respondent's children's RSDI income, resulting in a CDC overissuance of \$ [REDACTED] during the time period of November 8, 2009, through May 8, 2010.

CONCLUSIONS OF LAW

Department policies are contained in the Department of Health and Human Services Bridges Administrative Manual (BAM), Department of Health and Human Services Bridges Eligibility Manual (BEM), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and 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.

Departmental policy, BAM 725, Collection Actions, states that when the client group receives more benefits than entitled to receive, DHS must attempt to recoup the overissuance. BAM 725, p 1 (7/1/2014). Repayment of an overissuance is the responsibility of anyone who was an eligible, disqualified, or other adult in the program group at the time the overissuance occurred. BAM 725, p 1. Bridges will collect from all adults who were a member of the case. BAM 725, p 1. Overissuances on active programs are repaid by lump sum cash payments, monthly cash payments (when court ordered), and administrative recoupment (benefit reduction). BAM 725, p 3. Overissuance balances on inactive cases must be repaid by lump sum or monthly cash payments unless collection is suspended. BAM 725, p 3.

A Department error is caused by incorrect action (including delayed or no action) by DHS staff or department processes. Some examples are:

- Available information was not used or was used incorrectly.
- Policy was misapplied.
- Action by local or central office staff was delayed.
- Computer errors occurred.
- Information was not shared between department divisions such as services staff.
- Data exchange reports were not acted upon timely (wage match, new hires, BENDEX, etc.). BAM 700, p 4 (5/1/2014).

In this case, the Department has admitted that Respondent reported her children's RSDI income and that the Department did not follow their own policies in verifying and including the income. Because the Department failed to use the available information, Respondent's children's RSDI income was not budgeted.

Respondent contests the overissuance, because she did report her children's RSDI income and it was the Department's fault for not including it in the CDC budget, resulting in her receiving the CDC overissuance. In accord with policy, this Administrative Law Judge finds that regardless of fault, the Department must attempt to recoup the overissuance.

Respondent also testified that had she known of the overissuance earlier, she would have received the monies to repay the Department from a settlement she received due to the wrongful death of her husband. Respondent explained that the CDC income was taken into account in deciding the award, and had she not been receiving the CDC income, she would have received a larger settlement. That issue is not before this tribunal.

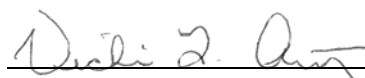
This Administrative Law Judge finds that the evidence presented by the Department shows that Respondent received more benefits than she was entitled to receive. Therefore, Respondent is responsible for repayment of the overissuance.

DECISION AND ORDER

The Administrative Law Judge, based upon the above findings of fact and conclusions of law, decides that Respondent received an overissuance of CDC benefits for the time period of November 8, 2009, through May 8, 2010, that the Department is entitled to recoup.

The Department is therefore entitled to recoup the CDC overissuance of \$ [REDACTED] from Respondent.

It is **SO ORDERED**.



Vicki Armstrong
Administrative Law Judge
for Nick Lyon, Director
Department of Health and Human Services

Date Signed: **5/4/2015**

Date Mailed: **5/4/2015**

VLA/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 copy of the claim or application for appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Hearing Decision from 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 48909-8139

cc:

