

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

IN THE MATTER OF:



Reg. No.: 201430756
Issue No.: 4006
Case No.: [REDACTED]
Hearing Date: April 23, 2014
County: Genesee (02)

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 April 23, 2014, from Detroit, Michigan. Participants on behalf of the Department included [REDACTED], Regulation Agent with the Office of Inspector General (OIG).

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 Program Administrative Manual (PAM) 725 (October 2003), pp. 16-20; Bridges Administrative Manual (BAM) 725 (July 2013), pp. 13-17.

ISSUE

Is the Department entitled to collect from Respondent an alleged overissuance (OI) of Child Development and Care (CDC) benefits for May 18, 2003 to October 31, 2003?

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 CDC benefits from the Department.

2. The Department alleges Respondent received a CDC OI during the period May 18, 2003, through October 31, 2003, due to Respondent's error.
3. The Department alleges that Respondent received a \$1481 OI that is still due and owing to the Department.
4. On January 17, 2014, the Department requested a hearing to establish the CDC OI against Respondent.

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).). Prior to August 1, 2008, Department policies were contained in the Department of Human Services Program Administrative Manuals (PAM), Department of Human Services Program Eligibility Manual (PEM), and Department of Human Services Reference Schedules Manual (RFS).

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.

The Department alleges that Respondent received CDC benefits totaling \$1481.60 between May 18, 2001 and October 31, 2003 but he did not have a valid need for those benefits and therefore was ineligible to receive the benefits. In order to receive CDC benefits, a client must have an acceptable need for such benefits. PEM 703 (October 2002), p. 1. An acceptable need is high school completion, an activity approved by the Michigan Works Agency, employment, or family preservation. PEM 703, p. 3.

In support of its case that Respondent lacked a need, the Department presented (i) an application Claimant submitted to the Department on April 4, 2003; (ii) an application Claimant submitted to the Department on October 14, 2003; (iii) a printout of unemployment benefits Respondent received beginning June 2003; (iv) the referral for education related daycare showing that Respondent was refused CDC benefits for barber school on November 17, 2003; (v) a welfare registration participant history for Respondent; (vi) CDC benefits issued on behalf of Respondent's child between May 18, 2003 and October 18, 2003; (vii) a verification of employment completed on October 22, 2003 by the temporary staffing agency at which Respondent worked; (viii) an employee disciplinary report showing Claimant's dismissal from employment on April 4, 2003; and (ix) a wage match showing quarterly employment wages to Respondent reported by employers.

The Department contended that Respondent did not have an approved need for CDC benefits, either based on MWA-approved activities or employment. In his April 4, 2003 application, Respondent indicated that he had lost his employment and had no earned income. He applied for CDC benefits on the basis of his participation in MWA or other approved education or training. In his October 14, 2003 application, he again indicates he has no employment income and identifies that he needs CDC benefits to participate in a MWA or other approved education or training. The worker's notes at the end of the application show that Respondent was attending barber school. Thus, Respondent was relying on his school participation as an MWA-approved activity establishing his need for CDC benefits.

In an attempt to establish that Respondent lacked a need for CDC services, the Department presented a November 2003 referral showing that Claimant was denied CDC benefits for attending barber school. However, the form does not cover the relevant period between May 18, 2003 and October 31, 2003. The Department also contended that Respondent's Family Independence Program (FIP) case was closed during the relevant period at issue and presented a welfare registration participant history to establish its case. However, a review of the history shows a noncompliance and May 21, 2003 termination date, but it does **not** show a case closure date. The Department did not present an eligibility summary or other evidence showing that Respondent was no longer a FIP recipient and therefore not eligible for participation in MWA between May 18, 2003 and October 31, 2003. See PEM 230A (October 2003), p. (requiring that all FIP recipients participate in employment-related activities through MWA unless deferred or engaged in activities other than employment which meet participation requirements).

Under the evidence presented, the Department has failed to establish that Respondent lacked a need for CDC benefits between May 18, 2003 and October 31, 2003. Therefore, the Department is not eligible to recoup or collect the \$1481.60 in CDC benefits issued to him during this period.

While the Department has failed on the merits to satisfy its burden of showing that it was entitled to collect the \$1481.60 in CDC benefits issued to Respondent, it is noted that an additional concern was presented in this matter due to the Department's considerable delay in instigating the debt collection proceedings. The evidence showed that the Department became aware of the alleged overissuance by 2006 at the latest, with the Department sending Respondent a notice of interview for September 20, 2006 and a repayment agreement on September 21, 2006. However, the OIG did not request a debt collection hearing until January 17, 2014, more than 7 years after it became aware of the overissuance and notified Respondent of it. This evidence raises concerns regarding the Department's compliance with its internal timeliness standards for pursuing overissuance. See BAM 700, pp. 11-12; PAM 700 (April 2003), p. 4. Furthermore, due process requires fundamental fairness. *In re Brock*, 442 Mich 101, 111; 499 NW2d 752 (1993). The Department's significant 7-year delay in requesting a debt collection hearing subjects a client to substantial prejudice with respect to attempts

to counter any claims alleged and raises concerns regarding the fundamental fairness of the proceeding. The legitimacy of the Department's IPV action is also questionable in light of the fact that it was not requested within the six-year statute of limitations for fraud cases. MCL 600.5813; see also *Blusal Meats, Inc. v US*, 638 F Supp 824, 831-832 (SDNY, 1986), aff'd 817 F2d 1007 (CA 2, 1987). The Department's failure to abide by timeliness standards provides an additional basis to deny the Department's allegations.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, if any, finds that the Department did not establish a CDC benefit OI to Respondent for the period between May 18, 2003 and October 31, 2003.

DECISION AND ORDER

Accordingly, the Department is REVERSED.

The Department is ORDERED to delete collection procedures against Respondent.


Alice Elkin
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 16, 2014

Date Mailed: May 16, 2014

NOTICE OF APPEAL: A party may appeal this Hearing Decision in the circuit court in the county in which he/she resides or has its principal place of business in the State, 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.

ACE/2014-30756

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

ACE/tlf

cc:

