

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

IN THE MATTER OF:

████████████████████
██
██

Reg. No.: 2014-31066
Issue No(s): 6006
Case No.: ██████████
Hearing Date: May 8, 2014
County: Oakland (03)

ADMINISTRATIVE LAW JUDGE: Eric Feldman

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 three-way telephone hearing was held on May 8, 2014, from Detroit, Michigan. Participants on behalf of the Department included ██████████ ██████████, Regulation Agent of the Office of Inspector General (OIG).

Participants on behalf of Respondent included the Respondent.

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 alleges Respondent received a FIP FAP SDA CDC

OI during the period February 1, 2010, through May 1, 2011, due to
 Department's error Respondent's error.

3. During the OI period, Respondent was issued \$2,298.84 in FIP FAP SDA CDC MA benefits by the State of Michigan, and the Department alleges that Respondent was entitled to \$951.72 in such benefits during this time period.
4. The Department alleges that Respondent received a \$1,347.12 OI that is still due and owing to the Department.
5. On September 3, 2013, a previous disqualification hearing was scheduled to address the CDC overissuance.
6. On September 24, 2013, the Administrative Law Judge (ALJ) sent Respondent/Department an Order of Dismissal due to the receipt of evidence submitted by the Respondent that could affect the case.
7. On January 22, 2014, the Department filed a hearing request, to establish an OI of benefits received by Respondent as a result of Respondent having committed the OI amount.

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).

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.

A client/CDC provider error OI occurs when the client received more benefits than they were entitled to because the client/CDC provider gave incorrect or incomplete information to the department. BAM 715 (May 2014), p. 1. For CDC only, provider errors are overissuances caused by a provider. BAM 715, p. 2.

Additionally, when a client group receives more benefits than they are entitled to receive, the Department must attempt to recoup the OI. BAM 700 (May 2014), p. 1. The amount of the OI is the benefit amount the group or provider actually received minus the amount the group was eligible to receive. BAM 715, p. 6.

In this case, the Department alleges that Respondent committed a client error of her CDC benefits when she failed to provide all sign-in and sign-out sheets verifying which days care was allegedly provided for her child. Due to this client error, the Department alleges that Respondent caused an overissuance of CDC benefits and is seeking recoupment in the amount of \$1,347.12 for the OI period of February 1, 2010, through May 1, 2011.

First, the Department presented Respondent's application dated May 21, 2009, to show that the Respondent was aware of her responsibility to report changes. See Exhibit 1.

Second, on an unspecified date, the Department discussed with the Respondent the CDC overissuance. The Department testified that it requested from the Respondent documentation to show if care was provided to the child by the provider. See OIG Report, Exhibit 1. Thus, on March 12, 2013, the Department received some CDC Daily Time and Attendance Records ("documentation") from the Respondent, which showed that care was provided. See Exhibit 1. However, a review of the submitted documentation on March 12, 2013, only provided partial proof that care was provided during the alleged OI period. See Exhibit 1. There were several billing periods which were unaccounted for and Respondent did not provide evidence of care for those billing periods as of March 12, 2013. Thus, the Department calculated a total OI amount of \$1,347.12 for the time period in which Respondent failed to provide proof of CDC care.

At the hearing, Respondent testified that the provider also resided with the Respondent at the time CDC services were rendered. Respondent testified, though, that the provider moved to a different state and took with him the remaining proof that CDC services were provided during the alleged OI period. Respondent testified that she only provided the documentation she had at the time she submitted them on March 12, 2013. Then, it was discovered that a previous hearing was scheduled to address the CDC OI on September 3, 2013. The Michigan Administrative Hearing System (MAHS) does confirm a hearing was scheduled that day; however, it was ultimately dismissed because of the receipt of evidence submitted by the Respondent that could affect the case.

Respondent testified that she faxed the additional documentation to the Department the day after the hearing. The Department did not dispute that it received a fax, however, testified that it was duplicative documents. Respondent disagreed because she testified that the provider moved back to Michigan and provided the Department with the remaining documentation.

During the hearing, Respondent testified that she had the additional documentation. The Department did not object to the additional documentation being faxed subsequent to the hearing as Respondent's Exhibit A. As such, the additional documentation was received via fax. See Exhibit A. A review of the documentation indicated that CDC services were rendered during the alleged OI period by the provider, other than one possible billing period. See Exhibit A.

It should be noted that the Department also provided CDC benefit inquiries and a CDC overissuance budget to show the alleged OI amount. See Exhibit 1.

Clients must cooperate with the local office in determining initial and ongoing eligibility. BAM 105 (January 2010), p. 5. This includes completion of necessary forms. BAM 105, p. 5. Clients must report changes in circumstance that potentially affect eligibility or benefit amount. BAM 105, p. 7. Other changes must be reported within 10 days after the client is aware of them. BAM 105, p. 7. These include, but are not limited to, changes in day care needs or providers. BAM 105, pp. 7-8.

The goal of the Child Development and Care (CDC) program is to preserve the family unit and to promote its economic independence and self-sufficiency by promoting safe, affordable, accessible, quality child care for qualified Michigan families. BEM 703 (January 2010), p. 1.

The Department of Human Services (DHS) may provide a subsidy for child care services for qualifying families when the parent(s)/substitute parent(s) is unavailable to provide the child care because of employment, participation in an approved activity and/or because of a health/ social condition for which treatment is being received and care is provided by an eligible provider. BEM 703, p. 1.

For CDC eligibility to exist for a given child, each parent/substitute parent (P/SP) must demonstrate a valid need reason. BEM 703, p. 2. There are four CDC need reasons. BEM 703, p. 3. Each need reason must be verified and exists only when each parent/substitute parent is unavailable to provide the care because of: (1) family preservation; (2) high school completion; (3) an approved activity; or (4) employment. BEM 703, p. 3.

CDC payments are made when:

- All eligibility and need requirements are met.
- Care is provided by an eligible provider.
- A CDC case is opened on the Department's system.
- The parent has reported the activity, ill/holiday hours and total child care hours.
- The provider has billed within 90 days after the end of the pay period being billed or within 90 days after authorizations were entered.

BEM 706 (January 2010), p. 1.

Prior to billing/reporting, providers should have their time and attendance records completed and parents should have their DHS-641, Child Development and Care Parent Record completed. BEM 706, p. 4. Both the time and attendance records and the DHS-641 must be retained by the provider and parent for four years. BEM 706, p. 4.

Based on the foregoing information and evidence, the Department did not establish a CDC benefit OI to Respondent totaling \$1,347.12. On March 12, 2013, the Department established that it only received partial proof that CDC services were rendered by the provider for the alleged OI period. Thus, at the time, it appeared an OI amount was present. Policy states that the time and attendance records and the DHS-641 must be retained by the provider and parent for four years. BEM 706, p. 4. As such, Respondent failed to retain her documentation in order to show CDC services were rendered at the time. Nevertheless, Respondent subsequently provided documentation to show that CDC services were rendered by the provider for the entire OI period, other than one possible billing period. See Exhibit A. The evidence is persuasive to conclude that the time and attendance records did indicate the provider rendered CDC services to the Respondent's child during the alleged OI period. Because the evidence presented that the CDC services were rendered during the alleged OI period, the Department failed to establish a CDC benefit OI amount totaling \$1,347.12.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department did not establish a CDC benefit OI to Respondent totaling \$1,347.12.

Accordingly, the Department is REVERSED.



Eric Feldman
Administrative Law Judge
for Maura Corrigan, Director
Department of Human Services

Date Signed: May 15, 2014

Date Mailed: May 15, 2014

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

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

EJF/cl

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