

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

IN THE MATTER OF:

██████████
██████████
████████████████████

Reg. No.: 14-018125
Issue No.: 6006
Case No.: ██████████
Hearing Date: March 30, 2015
County: Clare

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

HEARING DECISION

Upon a hearing request by Respondent challenging an overissuance (OI) of Department of Human Services (Department) benefits, 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 March 30, 2015, from Detroit, Michigan. Participants on behalf of the Department included ██████████, Recoupment Specialist. Respondent did not appear, and the hearing was held in Respondent's absence.

ISSUE

Did Respondent receive an OI of 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 a recipient of CDC benefits from the Department.
2. Respondent's household consists of Respondent, her husband, and their six adopted children.
3. On November 7, 2012, Respondent submitted an application for additional Department benefits and disclosed that she received adoption subsidies on behalf of her adopted children. (Exhibit C.)
4. On October 9, 2014, the Department sent Respondent a Notice of Overissuance alleging that she received an OI of CDC benefits totaling \$5056.80 for the period from September 23, 2012, to December 29, 2012, due to a client error (Exhibit A).

5. On December 3, 2014, Respondent filed a request for hearing disputing the Department's actions.

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.

In this case, the Department alleges that Respondent was overissued \$5056.80 in CDC benefits due to her delay in reporting the household's receipt of adoption subsidies on behalf of the six children in the household. When a client group receives more benefits than it is entitled to receive, the Department must attempt to recoup the overissuance. BAM 700 (May 2014), p. 1. The amount of the overissuance is the benefit amount the group actually received minus the amount the group was eligible to receive. BAM 715 (July 2014), p. 6; BAM 705 (July 2014), p. 6.

An adoption subsidy is a payment to the adopting parent(s) of an adopted child and can be in the form of a support subsidy or a medical subsidy. BEM 503 (November 2012), p. 2. A support subsidy is a payment for ongoing care and support of the child, and a medical subsidy is a payment for medical expenses due to a physical, mental or emotional condition of the child. For CDC purposes, support subsidies are considered income but medical subsidies are not. BEM 503, pp. 2-3. The Department alleges that, when the adoption subsidies received by Respondent are included in the calculation of the household's gross income, Respondent was ineligible for CDC benefits issued on her behalf from September 23, 2012, to December 29, 2012, because the group's gross income exceeded the CDC income limit applicable to the group size.

Unless a CDC group is categorically eligible for CDC benefits because the group has an open children's protective services case, the child needing care has an active Department foster care case, or the child needing care (or the parent of the child needing care) receives Family Independence Program (FIP) or Supplemental Security Income (SSI) benefits, the CDC group is eligible for CDC benefits only if income-eligible based on the CDC group size. BEM 703 (October 2012), pp. 11-13. In this case, there was no evidence that during the period at issue there was an open protective services

case, any child was in foster care, or any child or parent received FIP or SSI. Therefore, Respondent's CDC eligibility from September 23, 2012 to December 29, 2012 was based on income.

The Department established that during the period at issue, there were eight members in Respondent's household: her, her husband and their six minor children. Therefore, Respondent's CDC group size is eight. BEM 205 (July 2012), pp. 1-2. For a CDC group of eight, the gross income limit for CDC eligibility at the time at issue was \$3877. RFT 270 (October 2011), p. 1.

The Department's evidence established that in August 2012 and September 2012, Respondent received \$3619.38 in adoption subsidies, and in October 2012 and in December 2012, she received \$4166.94 in adoption subsidies (Exhibit E). There was no evidence to suggest that the amounts were not support subsidies, and Respondent did not appear at the hearing to challenge the Department's position that the adoption subsidies issued to Respondent were countable income. Additionally, in 2012, Respondent's husband received \$1345 in gross monthly Retirement, Survivors, and Disability Insurance (RSDI) income and their daughter [REDACTED] received \$230 in gross monthly RSDI income (Exhibit D). Based on the evidence presented, the Department established that Respondent's CDC group's gross income in September 2012, October 2012 and December 2012 exceeded the gross income limit for CDC eligibility. However, the only evidence concerning the group's gross income for November 2012 was the total \$1575 in RSDI income. Therefore, the Department has failed to satisfy its burden of showing the Respondent was income ineligible for CDC benefits in November 2012.

The Department established that \$5056.80 in CDC benefits were issued on Respondent's behalf between September 23, 2012, to December 29, 2012 (Exhibit G). Removing the \$1420.80 in CDC benefits issued on Respondent's behalf for the CDC pay periods from November 3, 2012, to December 1, 2012, reduces the OI amount to \$3636.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department established a CDC benefit OI to Respondent totaling \$3636.

The Department is ORDERED to reduce the CDC OI to \$3636 for the period September 23, 2012 to December 29, 2012, and initiate collection procedures for a \$3636 OI in accordance with Department policy.



Alice C. Elkin
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **4/15/2015**

Date Mailed: **4/15/2015**

ACE / tlf

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:

[REDACTED]