

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

IN THE MATTER OF:

[REDACTED]

Reg. No.: 15-005879
Issue No.: 6006
Case No.: [REDACTED]
Hearing Date: June 01, 2015
County: WAYNE-DISTRICT 19

ADMINISTRATIVE LAW JUDGE: Lynn M. Ferris

HEARING DECISION

Upon the request for a hearing by the Department of Health and Human Services (Department), this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9, and in accordance with Titles 7, 42 and 45 of the Code of Federal Regulation (CFR), particularly 7 CFR 273.16 and 45 CFR 235.110; and with Mich Admin Code, R 400.3130 and 400.3178. After due notice, a three way telephone hearing was held on June 1, 2015, from Detroit, Michigan. The Department was represented by [REDACTED], Recoupment Specialist for the Department of Health and Human Services.

Participants on behalf of Respondent included Nazarath Sanchez.

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. The Department alleges Respondent received a CDC OI during the period [REDACTED], due to **Department's** error.
3. The Department alleges that Respondent received an \$8998.64 OI that is still due and owing to the Department.

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), and Department of Health and 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.

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 705 (July 2014), p. 6. An agency error is caused by incorrect actions (including delayed or no action) by the Department of Human Services (DHS) staff or Department processes. BAM 705, p. 1. 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 705, p. 1. If unable to identify the type record it as an agency error. BAM 705, p. 1.

The following paragraphs describe the problems presented by the Department's proofs.

Additionally, In this case the Department sought to recover an overissuance of CDC benefits it alleged the Claimant received due to the Department's error. The Department claimed that the Respondent did not have a need as she was not working, not going to PATH, or attending school as required by BEM 703 (October 1, 2010), and that her husband was working, thus she was not eligible for CDC benefits. At the hearing the Respondent credibly testified that her caseworker at time of the OI, (who she named by name) was aware and knew and approved as a valid need activity that she was attending community college full time. The Respondent even reiterated that the case worker said it would allow her to get a better job when approving her CDC. The

Respondent brought her school attendance transcripts which demonstrated she was indeed in school full time. Respondent Exhibit 1. The Department did obtain the closed case file but did not present any evidence from the file. The Department could not rebut the Claimant's clear and credible testimony that she advised her worker that she was attending school full time during the period and she also indicated on her application(s) that she was attending school. Further the Department presented no budgets that might have demonstrated that Respondent's spouse's income made the group ineligible due to excess income. Thus the Department did not sustain its burden of proof to demonstrate that an overissuance occurred.

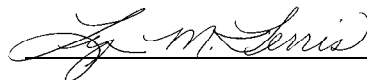
The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department **did not** establish a CDC benefit OI to Respondent totaling \$8998.64.

DECISION AND ORDER

Accordingly, the Department is

REVERSED.

The Department is ORDERED to cease collection procedures for an \$8998.64 OI in accordance with Department policy and delete the OI from its records.



Lynn M. Ferris
Administrative Law Judge
For Nick Lyon, Director
Department of Health and Human Services

Date Signed: **8/6/2015**

Date Mailed: **8/6/2015**

LMF / hw

NOTICE OF APPEAL: The law provides that within 30 days of receipt of the above Hearing Decision, the Respondent may appeal it to the circuit court for the county in which he/she lives or the circuit court in Ingham County. 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 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 48909-8139

cc:

