

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

IN THE MATTER OF:



Reg. No.: 15-000731
Issue No.: CDC
Case No.: [REDACTED]
Hearing Date: March 19, 2015
County: GENESEE-DISTRICT 6

ADMINISTRATIVE LAW JUDGE: Gary Heisler

HEARING DECISION FOR INTENTIONAL PROGRAM VIOLATION

Upon the request for a hearing by the Department of 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 with Mich Admin Code, R 400.3130 and R 400.3178. After due notice, a telephone hearing was held on March 19, 2015, from Lansing, Michigan. The Department was represented by Regulation Agent [REDACTED] of the Office of Inspector General (OIG). Respondent appeared and testified.

ISSUE

Whether Respondent committed an Intentional Program Violation (IPV) and whether that Intentional Program Violation (IPV) caused Respondent to receive a \$ [REDACTED] over-issuance of Child Development and Care Program benefits from April 7, 2013 to August 24, 2013 which the Department is entitled to recoup?

FINDINGS OF FACT

The Administrative Law Judge, based upon the clear and convincing evidence on the whole record, finds as material fact:

1. Respondent signed the affidavit in the October 29, 2012 Child Development and Care (CDC) Application (DHS-4583) certifying notice of reporting requirements as well as disqualification for violation of program rules.
2. Respondent had no apparent physical or mental impairment that would limit the understanding or ability to fulfill this requirement.
3. Respondent committed an Intentional Program Violation (IPV) by intentionally failing to report a change of employer and increased income.
4. In accordance with Bridges Administration Manual (BAM) 720 April 7, 2013 to August 24, 2013 has been calculated as the over-issuance period associated with this Intentional Program Violation (IPV).
5. During the over-issuance period, Respondent received a \$ [REDACTED] over-issuance of Child Development and Care Program benefits.

6. This is Respondent's 1st Intentional Program Violation (IPV).
7. The Department's OIG filed a disqualification hearing request on January 26, 2015.

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.

During this hearing Respondent testified that she reported the change of employer in writing, within 10 days. The Department's BRIDGES program was accessed during the hearing in order to determine if there were any records which support Respondent's testimony. The records show that Respondent was also receiving Food Assistance Program benefits during this time period. However, there were no changes made in Respondent's Food Assistance Program eligibility due to an increase of income. Based on the totality of evidence in the record, Respondent's assertion that she reported her increase of income, is not credible.

Bridges Administration Manual (BAM) 720 Intentional Program Violation (2014) governs the Department's actions in this case. The Department's OIG requests IPV hearings for the following cases:

Prosecution of welfare fraud or FAP trafficking is declined by the prosecutor for a reason other than lack of evidence, **and**

The total amount for the FIP, SDA, CDC, MA and FAP programs combined is \$500 or more, **or**

The total OI amount is less than \$500, **and**

The group has a previous IPV, **or**

The alleged IPV involves FAP trafficking, **or**

The alleged fraud involves concurrent receipt of assistance (see BEM 222), **or**

The alleged fraud is committed by a state/government employee.

Intentional Program Violation

BAM 720 states that a suspected IPV means an OI exists for which all three of the following conditions exist:

The client intentionally failed to report information or intentionally gave incomplete or inaccurate information needed to make a correct benefit determination, and

The client was clearly and correctly instructed regarding his or her reporting responsibilities, and

The client has no apparent physical or mental impairment that limits his or her understanding or ability to fulfill reporting responsibilities.

An IPV requires that the Department establish by clear and convincing evidence that the client has intentionally withheld or misrepresented information for the purpose of establishing, maintaining, increasing or preventing reduction of program benefits or eligibility. In other words, the Department must show that the Respondent engaged in a fraudulent act or omission they knew would result in receiving assistance they were not eligible for.

In this case, the Department presented an October 29, 2012 Child Development and Care (CDC) Application (DHS-4583) that Respondent submitted to the Department prior to the alleged OI period. This application is sufficient to establish that Respondent certified knowledge of reporting requirements as well as disqualification for violation of program rules.

Subsequently Respondent changed employers and received an increased income but did not report it. This constitutes clear and convincing evidence that Respondent was aware of the responsibility to report changes and that they intentionally failed to report the income with knowledge that doing so would reduce their benefits. Therefore, the Department has established that Respondent committed an IPV.

Over-issuance Period

BAM 720 states that the over-issuance period begins the first month (or pay period for CDC) benefit issuance exceeds the amount allowed by policy **or** 72 months (6 years) before the date it was referred to the RS, whichever is later.

To determine the first month of the over-issuance period (for over-issuances 11/97 or later) Bridges allows time for:

The client reporting period, per BAM 105.

The full standard of promptness (SOP) for change processing, per BAM 220.

The full negative action suspense period.

The over-issuance period ends the month (or pay period for CDC) before the benefit is corrected.

In this case, the Department submitted evidence showing that Respondent began receiving increased income February 5, 2013. Applying these requirements, the over-issuance pay period for CDC was properly identified as April 7, 2013.

Over-issuance Amount

BAM 720 states the over-issuance amount is the benefit amount the client actually received minus the amount the client was actually eligible to receive. The Department presented a benefit summary showing that the State of Michigan issued Respondent a total of \$ [REDACTED] of Child Development and Care Program benefits during the over-issuance period. In accordance with Reference Table 270 CDC Income Eligibility Scale, Respondent was not eligible for CDC benefits. Respondent received a \$ [REDACTED] over-issuance of Child Development and Care Program benefits.

Disqualification

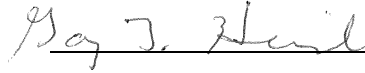
Bridges Eligibility Manual (BEM) 708 Client Disqualifications (2014) states that Clients who commit a CDC rule violation will be disqualified six months for the first occurrence, twelve months for the second occurrence and a lifetime for the third occurrence.

DECISION AND ORDER

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, finds that the Department has established by clear and convincing evidence that Respondent committed an Intentional Program Violation (IPV) which resulted in a \$ [REDACTED] over-issuance of Child Development and Care Program benefits that the Department is entitled to recoup.

This is Respondent's 1st Intentional Program Violation (IPV) of the Child Development and Care Program. The Department may disqualify Respondent from receiving Child Development and Care Program benefits in accordance with Department of Human Services Bridges Eligibility Manual (BEM) 708.

It is ORDERED that the actions of the Department of Human Services, in this matter, are **UPHELD**.



Gary Heisler
Administrative Law Judge
for Nick Lyon, Interim Director
Department of Human Services

Date Signed: **4/8/2015**

Date Mailed: **4/8/2015**

GFH/hj

NOTICE: 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.

cc:

