



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM
Christopher Seppanen
Executive Director

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED]
[REDACTED]

Date Mailed: June 10, 2016
MAHS Docket No.: 16-004639
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Alice C. Elkin

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 telephone hearing was held on May 31, 2016, from Detroit, Michigan. The Department was represented by [REDACTED], Recoupment Specialist. Respondent was notified of the hearing but did not appear. The Department requested that the hearing proceed in Respondent's absence.

ISSUE

Did Respondent receive an over-issuance (OI) of Child Development and Care (CDC) benefits for the period June 29, 2014 to September 20, 2014 due to agency error?

FINDINGS OF FACT

The Administrative Law Judge, based on the competent, material, and substantial evidence on the whole record, finds as material fact:

1. Petitioner had a child support noncooperation sanction applied to her case beginning February 18, 2014 (Exhibit F).
2. On June 19, 2014, the Department sent Respondent a Notice of Case Action notifying her that she was denied cash assistance because she was in noncooperation with her child support reporting obligations but her son was approved for CDC benefits (Exhibit E).

3. From June 29, 2014 to September 20, 2014, Respondent received CDC benefits from the Department.
4. On March 24, 2016, the Department sent Respondent a Notice of Overissuance notifying her that she was overissued \$1880 in CDC benefits from June 29, 2014 to September 20, 2014 due to agency error (Exhibit G).
5. On April 8, 2016, Respondent requested a hearing disputing the Department's finding that she was overissued CDC benefits and was required to repay those benefits.

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 IV-A, IV-E 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 it issued \$1880 in CDC benefits to Respondent due to agency error from June 29, 2014 to September 20, 2014 and seeks to recoup this amount from Respondent. Agency error is caused by incorrect actions by the Department, including not using available information correctly or misapplying policy. BAM 705 (January 2016), p. 1. When a client group receives more benefits than it is entitled to receive, even if due to agency error, the Department must attempt to recoup the overissuance. BAM 700 (May 2014), p. 1. The amount of a CDC OI is the benefit amount the group actually received minus the amount the group was eligible to receive. BAM 705, p. 6.

The Department testified that in May 2014 Respondent applied for cash assistance and CDC benefits. While she was properly denied cash assistance due to a child support noncooperation disqualification, due to a system glitch, she was approved for CDC benefits even though she should also have been denied those benefits due to her child support noncooperation disqualification. Department policy provides that the custodial parent must comply with all requests for action or information needed to establish paternity and/or obtain child support on behalf of children for whom they receive assistance, unless a claim of good cause for not cooperating has been granted or is pending. BEM 255 (January 2014), p.1. Failure to cooperate without good cause

results in disqualification. BEM 255, p. 2. The Department will close or deny CDC eligibility when a child support noncooperation record exists and there is no corresponding comply date. BEM 255, p. 13.

In this case, the Department established that its records showed that Respondent was in noncompliance with her child support reporting obligations as of February 18, 2014, with no compliance date identified (Exhibit F). The Department testified that Respondent continued to be in noncompliance as of the hearing date. In light of the child support disqualification, Respondent was not eligible for any CDC benefits issued on her behalf between June 29, 2014 and September 20, 2014. The Department established that during this period, \$1880 in CDC benefits were issued by the Department on Respondent's behalf (Exhibit I). Because Respondent was not eligible for any of these benefits, the Department has established a CDC OI totaling \$1880 due to agency error.

The Administrative Law Judge, based upon the above Findings of Fact and Conclusions of Law, finds that the Department **did** establish a CDC benefit OI to Respondent totaling \$1880.

DECISION AND ORDER

Accordingly, the Department is AFFIRMED.

The Department is ORDERED to initiate collection and/or recoupment procedures for a \$1880 CDC OI due to agency error for the period June 29, 2014 to September 20, 2014 in accordance with Department policy.



ACE/tlf

Alice C. Elkin

Administrative Law Judge

for Nick Lyon, Director

Department of Health and Human Services

NOTICE OF APPEAL: A party may appeal this Order in circuit court within 30 days of the receipt date. A copy of the circuit court appeal must be filed with the Michigan Administrative Hearing System (MAHS).

A party may request a rehearing or reconsideration of this Order if the request is received by MAHS within 30 days of the date the Order was issued. The party requesting a rehearing or reconsideration must provide the specific reasons for the request. MAHS will not review any response to a request for rehearing/reconsideration.

A written request may be mailed or faxed to MAHS. If submitted by fax, the written request must be faxed to (517) 335-6088; 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

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