



RICK SNYDER
GOVERNOR

STATE OF MICHIGAN
DEPARTMENT OF LICENSING AND REGULATORY AFFAIRS
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

SHELLY EDGERTON
DIRECTOR

[REDACTED]
[REDACTED]
[REDACTED] MI [REDACTED]

Date Mailed: December 17, 2018
MAHS Docket No.: 18-011743
Agency No.: [REDACTED]
Petitioner: [REDACTED]

ADMINISTRATIVE LAW JUDGE: Jeffrey Kemm

HEARING DECISION

Following Petitioner's request for a hearing, this matter is before the undersigned Administrative Law Judge pursuant to MCL 400.9 and 400.37; 45 CFR 99.1 to 99.33; and Mich Admin Code, R 792.11002. After due notice, a telephone hearing was held on December 12, 2018, from Lansing, Michigan. Petitioner, [REDACTED] [REDACTED] appeared and represented herself. Recoupment Specialist, Rebecca Smalley, appeared and represented the Department. Neither party had any additional witnesses.

One exhibit was admitted into evidence during the hearing. A 36-page packet of documents provided by the Department was admitted collectively as the Department's Exhibit A.

ISSUE

Does Petitioner owe the Department a debt for Child Development and Care (CDC) assistance that was overissued to her?

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 has two children, and their dates of birth are [REDACTED] [REDACTED] and [REDACTED] [REDACTED]
2. On [REDACTED] [REDACTED] 2015, Petitioner applied for CDC from the Department. The Department approved Petitioner's application and issued CDC payments for both of her children.
3. The Department issued CDC payments for both children through September 2017.

4. The Department ceased issuing payments for the oldest child when the Department realized that the child was ineligible because the child did not meet the Department's age requirement.
5. On October 31, 2018, The Department issued a recoupment notice to Petitioner in an attempt to recoup \$ [REDACTED] in CDC payments it issued erroneously.
6. On [REDACTED] [REDACTED] [REDACTED] Petitioner filed a hearing request to dispute the Department's recoupment.

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), Department of Health and Human Services Reference Tables Manual (RFT), and Department of Health and Human Services Emergency Relief Manual (ERM).

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.

Age is an eligibility factor for CDC. BEM 240 (October 1, 2017), p. 1. A child remains eligible for CDC until the end of the 12-month eligibility period in which the child reaches the age of 13. *Id.* Here, Petitioner's eligibility period began in June of each year because her approved application was originally submitted in May 2015. Petitioner's oldest child reached age 13 on October 1, 2016, so the child was only eligible through the 12-month eligibility period ending May 31, 2017. All payments issued for Petitioner's oldest child after May 2017 were issued by the Department due to its own error. The Department presented sufficient evidence to establish that it issued \$ [REDACTED] in CDC payments for Petitioner's oldest child after May 2017. Thus, Petitioner was overissued \$ [REDACTED]

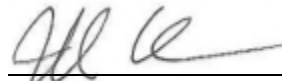
When a client receives more benefits than she was entitled to receive, the Department must attempt to recoup the overissuance. BAM 700 (October 1, 2018), p. 1. The overissuance amount is the amount of benefits in excess of the amount the client was entitled to receive. *Id.* at p. 2. Overissuances for CDC that result from the Department's error must be pursued by the Department when the amount is greater than or equal to \$250. BAM 705 (October 1, 2018), p. 1. Here, Petitioner received an overissuance due to the Department's error. However, the Department acted in accordance with its policies when it pursued the overissuance because the amount involved was greater than or equal to \$250.

DECISION AND ORDER

The Administrative Law Judge, based on the above Findings of Fact and Conclusions of Law, and for the reasons stated on the record, if any, finds that the Department did act in accordance with its policies and the applicable law when it issued its recoupment notice on October 31, 2018, for an overissuance of \$ [REDACTED] in CDC payments.

IT IS ORDERED that the Department may initiate recoupment procedures to collect the \$ [REDACTED] debt Respondent owes the Department for the CDC payments she was overissued.

JK/nr



Jeffrey Kemm
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) 763-0155; 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

DHHS

Kathleen Verdoni
411 East Genesee
PO Box 5070
Saginaw, MI
48607

Saginaw County DHHS- via electronic
mail

L. Brewer-Walraven- via electronic mail

DHHS Department Rep.

MDHHS-Recoupment
235 S Grand Ave
Suite 1011
Lansing, MI
48909

Petitioner

[REDACTED]
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[REDACTED]