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OSAH

**BEFORE THE OFFICE OF STATE ADMINISTRATIVE HEARINGS
STATE OF GEORGIA**

OCT 2 2014

K. Westray

Kevin Westray, Legal Assistant

CONYERS KIDZ ACADEMY,)

Petitioner,)

v.)

**GEORGIA DEPARTMENT OF
EARLY CARE AND LEARNING,**)

Respondent.)

**DOCKET NO. OSAH-DECAL-CAPS-
1509501-122-OAKLEY**

INITIAL DECISION

This matter is the Petitioner's appeal of the Respondent's issuance of a Child Care Claim and Collection Notice dated June 23, 2014, seeking repayment of the amount of \$29,781 representing child care payments received by the Petitioner for the period of Service Week August 9, 2010, through Service Week May 20, 2013.

Findings of Fact

The credible evidence supports the following:

1.

The Petitioner entered into Child Care Provider Agreements for the provision of child care services to children enrolled in the Childcare and Parent Services Program on June 14, 2010, on May 18, 2011, and on October 16, 2013 (the "Petitioner's Child Care Provider Agreements"). Respondent's Exhibit 1.

2.

Each of the Petitioner's Child Care Provider Agreements required the Petitioner to comply with "all applicable local ordinances and state and federal laws, and all applicable licensure requirements and policies and procedures" of the Respondent. Respondent's Exhibit 1.

3.

The Petitioner agreed to make no claims to the Respondent for payment for child care services provided to children enrolled in the Childcare and Parent Services Program during periods in which the Petitioner was not in full compliance with all policies and procedures of the Respondent. Further, the Petitioner agreed to fulfill all of the requirements of the Childcare and Parent Services Program as set out in the Respondent's Manual "and in all amendments to the Manual that may be made in the future." Respondent's Exhibit 1.

4.

The Petitioner agreed that the Respondent was authorized to recoup all its payments for child care services which were provided during periods in which the Petitioner was not in compliance with all policies and procedures of the Respondent. Respondent's Exhibit 1.

5.

On May 12, 2010, the Respondent granted the Petitioner's request for exemption from licensure for the operation of a day camp program for children five years and older during the summer and school breaks at 2140 Flat Shoals Road, Conyers, Georgia. Thereafter, on May 27, 2010, the Respondent granted the Petitioner's request for exemption from licensure for operation of a day camp program at 2440 Wall Street, Suite D, Conyers, Georgia. Respondent's Exhibit 4.

6.

On July 22, 2010, the Respondent granted the Petitioner's request for exemption from licensure for the operation of a preschool program for children two (2) years through six (6) years for no more than four (4) consecutive hours per day at 1491 Old Salem Road, Conyers, Georgia. Respondent's Exhibit 4.

7.

On March 5, 2012, the Respondent granted two requests for exemption from licensure to the Petitioner : (a) for the operation of a preschool program for children two (2) years through six (6) years for no more than four (4) consecutive hours per day from 9:00 am until 1:00 pm; and (b) for the operation of a day camp program for children five (5) years and older during summer and school breaks. Each of these exemption requests was issued for the Petitioner's location at 1491 Old Salem Road, Conyers, Georgia. Respondent's Exhibit 4.

8.

Upon receipt of a Request for Child Care Provider Investigation, the Respondent conducted a site visit of the Respondent's facility on August 9, 2013, for the purpose of verifying

the Petitioner's compliance with the Respondent's policies and procedures including the applicable exemption criteria. The Respondent was unable to verify that the Petitioner was operating in compliance with the applicable exemption criteria on the date of the site visit. Respondent's Exhibits 3 and 5; Testimony of Ms. Hill.

9.

Thereafter, the Respondent conducted an examination of the Childcare and Parent Services subsidy payments made to the Petitioner. On the basis of the subsidy payment data collected during this examination, the Respondent determined that the Petitioner had received subsidy payments in the amount of \$29,781.00 (the "Recoupment Amount") for child care services which were not provided in compliance with the requirements of the relevant exemption criteria. Respondent's Exhibits 7 and 9; Testimony of Mr. Allen.

10.

The Petitioner's contentions in contravention of the Respondent's recoupment include:

- a) The Recoupment Amount would not have been paid unless the disputed claims were valid;
- b) The Petitioner followed all of the procedures of the Department of Human Resources;
- c) The Petitioner was not made aware of changes in the compliance requirements; and
- d) The Petitioner received verbal approval for the disputed claims.

Respondent's Exhibit 10; Testimony of the Petitioner. The Petitioner's testimony was not credible and did not contradict the credible evidence. Testimony of Petitioner. The Petitioner's contentions were not supported by the proffered evidence. Petitioner's Exhibits 1, 2, 3, 4 and 6.

Conclusions of Law

1.

The Petitioner failed to carry the burden of proof as to the affirmative defenses raised in this appeal. Ga. Comp. R. & Regs. r. 616-1-2-.07(1)(a).

2.

The Petitioner was granted approval by the Respondent to receive child care subsidy payments through two (2) exemption categories: (a) for provision of four (4) hours of child care services provided to children two (2) through six (6) years of age from the hours of 9:00 am to 1:00 pm; and (b) for provision of child care services to children aged five (5) years and older during summer and school breaks. The Petitioner failed to comply with the Respondent's policies and procedures and submitted claims for child care services provided in violation of the

requirements of the Petitioner's two exemption categories. Ga. Comp. R. & Regs.. r. 591-1-1-.46(1)(b)(6)-(7).

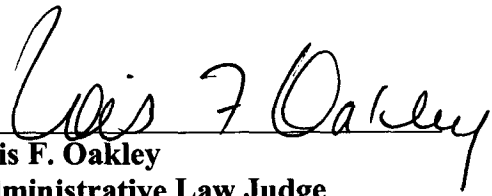
3.

The Petitioner violated the terms and provisions of the Petitioner's Child Care Provider Agreements by the submission of claims for the provision of child care services which were not in compliance with the Respondent's requirements for the applicable exemption categories.

Decision

For all the above and foregoing reasons, the Respondent's issuance of the Child Care Claim and Collection Notice seeking recoupment of the amount of \$29,781 from the Petitioner is **AFFIRMED**.

This 2d day of October, 2014.


Lois F. Oakley
Administrative Law Judge