

STATE OF MICHIGAN
DEPARTMENT OF HUMAN SERVICES

RECEIVED
SEP 22 2014
BCAL

In the matter of

Ollie Simmons,
Petitioner,

V

Bureau of Children and Adult
Licensing,
Respondent.

Docket No. 13-014138-DHS
13-014139-DHS

Agency No. DC 110288894
DC 390085921

Agency: DHS

Case Type: BCAL

Filing Type: Sanction

Issued and entered
this 17 day of September, 2014
by
Maura D. Corrigan, Director
Department of Human Services

RECEIVED
SEP 22 2014
BUREAU OF CHILDREN
AND ADULT LICENSING

FINAL DECISION AND ORDER

This matter began with Respondent's August 7, 2013 notice of intent to revoke (notice of intent) two licenses to operate child care centers under the Child Care Organizations Act (Act), 1973 PA 116, as amended, MCL 722.111 *et seq.* A properly noticed hearing regarding the matter at issue was held by Administrative Law Judge Renee A. Ozburn (ALJ) on January 15, 2014 and March 24, 2014. Petitioner appeared on her own behalf. Departmental Analyst Jennifer Kerr represented Respondent.

Respondent sought to revoke Petitioner's licenses based on the allegations contained in the notice of intent that allege Petitioner violated the Act, as well as administrative rules promulgated under the Act. In Count I of the notice of intent,

Respondent alleged that Petitioner violated Rule 400.5102, which states in relevant part:

The licensee shall do all of the following:

Demonstrate to the Department that he or she is of good moral character as defined in 1974 PA 381, MCL 338.41 to 338.47, and is suitable to meet the needs of children. [400.5102 (1)(a)]

Petitioner failed to properly maintain attendance records when she filled in attendance sheets with dates and times that should have been filled out and verified by each parent whose child attended the particular child care center in question. There was a history of repeated investigations and sanctions for Petitioner's improper record keeping and billing methods. There is sufficient evidence on the record to support that Petitioner knowingly continued to maintain recordkeeping practices that were not only in non-compliance with the rules promulgated under the Act, but also, a failure to serve the public in a fair, honest, and open manner. Therefore, the ALJ properly concluded that Respondent sufficiently demonstrated Petitioner's willful and substantial violation of Rule 400.5102 (1) (a).

In Count II of the notice of intent, Respondent alleged that Petitioner violated MCL 722.115e, which states in pertinent part:

A child care center or day care center licensee shall report to the department and an employee of a child care center or day care center shall report to that child care center within 3 business days after he or she has been arraigned for 1 or more of the following crimes: Any felony. [MCL 722.115e (1)(a)]

The record indicates Petitioner acknowledged her failure to report her arrest and arraignment within the required timeframe. Therefore, the ALJ properly determined

Respondent sufficiently demonstrated Petitioner's willful and substantial violation of MCL 722.115e (1)(a).

In Count III of the notice of intent, Respondent alleged that Petitioner violated R 400.5111, which states in pertinent part:

The center shall maintain an accurate record of daily attendance at the center that includes each child's first and last name, and child's arrival and departure time. [Rule 400.5111(8)]

On or about August 29, 2011, Petitioner agreed to repay the Department of Human Services the amount of \$10,910.13 for child care hours billed that were not accurately supported by Petitioner's attendance records (Respondent's Exhibit A). The evidence on the record supported the ALJ's finding that Petitioner has failed to maintain accurate daily attendance as required by the rules promulgated under the Act. Therefore, the ALJ properly determined that Respondent sufficiently demonstrated that Petitioner willfully and substantially violated Rule 400.5111 (8).

On July 28, 2014, the ALJ issued and entered a Proposal for Decision (PFD) concluding that Petitioner willfully and substantially violated Rule 400.5102 (1)(a); MCL 722.115e (1)(a); and Rule 400.5111 (8). The parties had 14 days to file exceptions and 14 days to file responses to any exceptions. Exceptions were not filed by either party.

I concur with the ALJ's Findings of Fact and Conclusions of Law to the extent not inconsistent with this Order.

ORDER

NOW THEREFORE, IT IS ORDERED that:

1. To the extent not inconsistent with this Order, the ALJ's Proposal for Decision (PFD) is adopted and is incorporated by reference, and made a part of this Final Decision and Order (see attached PFD).
2. The actions of the Bureau of Children and Adult Licensing in this matter are AFFIRMED.
3. Petitioner's licenses are REVOKED effective on the date this Final Decision and Order is issued and entered.



Maura D. Corrigan, Director
Department of Human Services

PROOF OF SERVICE

I hereby state, to the best of my knowledge, information and belief, that a copy of the foregoing document was served upon all parties and/or attorneys of record in this matter by Inter-Departmental mail to those parties employed by the State of Michigan and by UPS/Next Day Air, facsimile, and/or by mailing same to them via first class mail and/or certified mail, return receipt requested, at their respective addresses as disclosed by the file on the 19th day of September, 2014.

Marcy Best

Marcy Best
Department of Human Services

✓ Jason Scheeneman
Bureau of Children & Adult Licensing
201 N. Washington Square
P.O. Box 30650
Lansing, Michigan 48909

Tiara McKay
Bureau of Children and Adult Licensing
322 East Stockbridge Avenue
Kalamazoo, MI 49001

Jennifer Kerr
Bureau of Children and Adult Licensing
201 N. Washington Square, 4th Fl
P.O. Box 30650
Lansing, MI 48909

Ollie Simmons
845 Westmoreland
Kalamazoo, MI 49006

Yolanda Sims
Bureau of Children and Adult Licensing
322 East Stockbridge Avenue
Kalamazoo, MI 49001

STATE OF MICHIGAN
MICHIGAN ADMINISTRATIVE HEARING SYSTEM

IN THE MATTER OF:

Docket No.: 13-014138-DHS
13-014139-DHS

Ollie Simmons,
Petitioner

Case No.: DC 110288894
DC 390085921

v

Bureau of Children and Adult Licensing,
Respondent

Agency: Department of
Human Services

Case Type: DHS BCAL

Filing Type: Sanction
Revocation

Issued and entered
this 28th day of July, 2014
by Renee A. Ozburn
Administrative Law Judge

PROPOSAL FOR DECISION

On August 7, 2013, the Bureau of Child and Adult Licensing (BCAL/Respondent) issued two Notices of Intent to Revoke License(s) of Ollie Simmons (Petitioner) to operate two child care centers, pursuant to authority of the Child Care Organization Act, 1973 PA 116, as amended, MCL 722.111 *et seq.* Ms. Simmons requested a hearing to appeal the intended revocations.

Hearings were held on January 15, 2014 and March 24, 2014. Ollie Simmons represented herself and testified on her own behalf. Dennis Simmons testified as a witness on behalf of Ms. Simmons. Jennifer Kerr represented BCAL. Jessica Mitchell and Tiara McKay testified as witnesses for BCAL.

ISSUES AND APPLICABLE LAW

The issue is whether Ms. Simmons is in violation of MCL 722.115e, R 400.5102(1)(a) and R 400.5111(8) which provide as follows:

722.115e Arraignment of licensee or employee; report;
crimes; licensee or employee not convicted of crime;
deletion of information from records; notice requirements.

Sec. 5e.

(1) A child care center or day care center licensee shall report to the department and an employee of a child care center or day care center shall report to that child care center or day care center within 3 business days after he or she has been arraigned for 1 or more of the following crimes:

(a) Any felony.

R 400.5102 Licensee

The licensee shall do all of the following:

Demonstrate to the department that he or she is of good moral character as defined in 1974 PA 381, MCL 338.41 to 338.47, and is suitable to meet the needs of children.

MCL 338.41 Good moral character defined

(1) The phrase "good moral character", or words of similar import, when used as a requirement for an occupational or professional license or when used as a requirement to establish or operate an organization or facility regulated by this state in the Michigan Compiled Laws or administrative rules promulgated under those laws shall be construed to mean the propensity on the part of the person to serve the public in the licensed area in a fair, honest, and open manner.

R 400.5111 Children's records.

(8) The center shall maintain an accurate record of daily attendance at the center that includes each child's first and last name, and each child's arrival and departure time.

SUMMARY OF EXHIBITS

Petitioner Exhibits:

Exhibit 1 Time & Attendance Sheet dated 7/20/11

Respondent Exhibits:

Exhibit A	2011 Investigation Report
Exhibit B	2012 Investigation Report
Exhibit C	Judgment of Sentence
Exhibit D	Order of Probation
Exhibit E	6/26/13 Special Investigation Report
Exhibit F	6/26/13 Special Investigation Report
Exhibit G	Correspondence from O. Simmons to BCAL dated 9/4/13
Exhibit H	2003 Investigation Report
Exhibit I	Provider Verification

FINDINGS OF FACT

1. In 1983, Ollie Simmons was licensed to operate a group home with a capacity of 12. In 1999, Ms. Simmons was licensed to operate a child care center for 20 children in Kalamazoo County, Michigan. At the time of the hearings in this matter, this facility was still open. In 2008, Ms. Simmons was licensed to operate a child care center in Berrien County, Michigan. At the time of the hearings in this matter, the Berrien County facility was closed.
2. When Ms. Simmons moved from operating a group home to a child care center in 1999, there was no additional training required. However, she was made aware of additional regulations regarding record keeping applicable to child care center operations.
3. Approximately 99.9% of the parents bringing children to Ms. Simmons' facilities qualify for Department of Human Services (DHS) assistance. To admit a child for whom DHS reimbursement is anticipated, a parent must give Ms. Simmons a DHS issued form indicating how many hours of day care are authorized for the child. When Ms. Simmons first meets with parents she informs them that they should not bring the child to the center if the parent is not at work, in school or involved in an activity specifically approved for child care reimbursement. Normally, a DHS caseworker will notify Ms. Simmons if a client's authorization for child care has changed.
4. In 1999, to receive reimbursement from DHS for care of subsidized children, a licensee was required to take attendance every 2 weeks and submit these attendance records to the department for payment. Starting in or around 2008, licensees were required to input attendance hours into a computer program. In or around 2010, new attendance rules required that both the licensee and the parent verify attendance documentation as a prerequisite to licensee reimbursement. Verification requirements included attendance records that were

signed by the parent or guardian each time a child was dropped off or picked up at the child care center. Ms. Simmons asserts that she posted the department attendance forms in the reception area of her centers. She also had a staff person stationed there to make sure whoever drops the child off signs in. However, sometimes the staff person assigned to check in parents might be busy dealing with another parent and couldn't always catch whoever was dropping off a child to assure they signed in or out correctly.

5. Ms. Simmons acknowledges that at every 3 year renewal of her license to operate a child care center, rule books and statutory provisions are made available. As recently as March 2012, she signed a Provider Verification form (Exhibit I) agreeing to:
 - maintain records documenting daily arrival and departure times of children,
 - have the daily records certified by each child's "parent/substitute parent",
 - keep the records for 4 years.
6. At some point, Ms. Simmons came to believe that only a parent, and not just the person delivering the child, could sign the attendance sheets verifying dates and times. This required catching the parents for signatures on dates and times other than the actual arrival and departure. Ms. Simmons had difficulty getting parents to cooperate with consistently signing the attendance sheets or tracking them down to verify attendance when others dropped their children off.
7. Although DHS provides licensees with forms for recording attendance, there is no specific attendance verification training for large child care centers. Ms. Simmons called the department's reconciliation unit when billing issues arose, but she did not feel the department understood the difficulties of trying to comply with attendance verification requirements. She acknowledges that she occasionally filled in times with the intent of getting the parent to sign later, but denies filling in times before a child came in. She tried different tactics to get parents to comply with sign in requirements including color coding the sign-in sheet to help them sign in the right place. Ms. Simmons did not believe it was reasonable to turn away children simply because their parents did not properly fill out paperwork. If a parent called in to report that a child was sick, Ms. Simmons would write in "sick" and note the hours normally scheduled for that child.
8. In February 2011, the room where Ms. Simmons kept old attendance records was flooded and records were destroyed.

9. Jessica Mitchell is a senior agent with the department's Office of Inspector General. In 2011, Ms. Mitchell was assigned to investigate Ms. Simmons' billing practices. She reviewed the available child care center records and compared billing invoices to attendance records. Ms. Mitchell acknowledged that Ms. Simmons provided acceptable proof of flood damage that destroyed some attendance records in early 2011.
10. Ms. Mitchell's investigation found discrepancies, for a period after the flood, including 3,000 hours of child care billed by Ms. Simmons for which there were no concurrent attendance records. There were also instances where Ms. Simmons billed for more hours than completed logs indicated. Ms. Simmons was unable to explain these discrepancies. When Ms. Mitchell met with Ms. Simmons in August 2011, Ms. Simmons stated her frustration with trying to get parental cooperation. Ms. Mitchell attempted to give Ms. Simmons a detailed explanation of the record keeping required of the licensee, emphasizing that there must be documentation supporting all hours billed.
11. Parents are approved for childcare in intervals of 2 weeks. The department provides licensees with information on the amount of childcare hours DHS has approved for a parent during any 2 week period. Further, licensees are required to maintain hourly attendance records for 4 years for each child. If a child does not attend due to illness, under circumstances that allow a licensee to bill despite the absence, there must be documentation from the parents certifying the child's illness. Ms. Mitchell explained to Ms. Simmons that while parents are generally responsible for signing attendance sheets, department policy also allows whoever drops off or picks up a child to sign. Ms. Mitchell also reminded Ms. Simmons about the on-line daycare provider handbook that can be consulted on billing issues and the phone numbers for provider assistance.
12. At the conclusion of her investigation, Ms. Mitchell filed an Investigation Report with findings alleging welfare fraud and false pretenses because Ms. Mitchell was unable to verify 3,740 hours billed to the department, after the flood, between 2/13/11 and 7/2/11. (Exhibit A)
13. On August 29, 2011, Ms. Simmons signed a Provider Repayment Agreement agreeing to repay \$10,910 by February 2012. Ms. Simmons completed the payment as agreed.
14. After the 2011 investigation and required restitution, Ms. Simmons' husband of 34 years, Dennis Simmons, began to assist with billing tasks at the child care centers.

15. In July 2012, Ms. Mitchell opened another investigation of Ms. Simmons' billing practices. The department only pays for childcare when parents are at work or engaged in other specific approved activity. Ms. Mitchell interviewed eight parents and compared their employment attendance records with child care billings submitted by Ms. Simmons for times corresponding with work hours of the parents. A cross-reference of these records indicated that Ms. Simmons billed for \$34,151.00 of childcare for times the parents were not working or engaged in other approved activity. In addition, Ms. Simmons billed for times when there was no supporting evidence that the children were actually at the child care center.
16. During the 2012 investigation, Dennis Simmons' acknowledged parents were often handed stacks of attendance sheets for a billing cycle and asked to initial dates and times already filled in, allegedly by people who dropped off or picked up children in lieu of the parents. Mr. Simmons asserts that some of the discrepancy problems arose when parents were confronted with employment records showing they did not work on days that they dropped off their children and those parents then blamed the Simmons for lying on attendance records. He contends that other discrepancies may have been the result of billing during holidays and absences due to illnesses, for which the licensee was entitled to reimbursement. Further, Mr. Simmons indicated that he would sometimes bill for actual time a child was at the center, regardless of the authorized time for that child.
17. When Ms. Simmons did not agree to sign a repayment agreement for the discrepancy amount found after the July 2012 investigation, Ms. Mitchell referred the matter to prosecutors who issued felony fraud charges.
18. On February 15, 2013, Ms. Simmons pled guilty to 3 counts of misdemeanor welfare fraud and was placed on a two year probation. (Exhibit C) In the Order of Probation, she was ordered to pay restitution in the amount of \$34,151.64 by April 8, 2015. (Exhibit D) Ms. Simmons pled guilty because she wanted the matter to end as it was causing her stress and health problems that were affecting her own children. When the charges were filed she was arrested and spent a night in jail. She asserts that none of her actions or inaction was the result of intent to defraud or for monetary gain. She asserts that her sole purpose was to provide good child care.
19. Ms. Simmons asserts that the cumulative stress of being arrested and the ongoing legal actions contributed to her forgetting to self-report her arrest and arraignment for felony welfare fraud.

CONCLUSIONS OF LAW

The principles that govern judicial proceedings also apply to administrative hearings, 8 Callaghan's Michigan Pleadings and Practice, §60.48 at 239 (2d ed. 1994). The Bureau of Child and Adult Licensing has the burden of proving, by a preponderance of the evidence, that licensee Ollie Simmons violated the Child Care Organization Act, and rules promulgated pursuant to the Act, as alleged in the August 7, 2013, Notice of Intent to Revoke.

Count I

Ms. Simmons appears to blame parents of the children in her care for most of her history of billing discrepancies. However, there was no evidence that Ms. Simmons was prevented from instituting strict standards for parental compliance with DHS documentation/verification requirements as a condition of continued child care. After being required to repay \$10,910 in 2011, it is inexplicable why Ms. Simmons did not make securing the most accurate attendance records a top priority. Despite Ms. Simmons' suggestion that obtaining parental cooperation with record keeping requirements was an insurmountable obstacle, the evidence supports a conclusion that Ms. Simmons' problems were caused by her own lack of diligence in taking the record keeping regulations seriously.

Being repeatedly investigated and sanctioned for record keeping and billing inaccuracies would put the average licensee on notice that DHS considered payment verification as seriously as compliance with the actual care of children. Instead, Ms. Simmons came up with her own system for providing verifications that would generate payment by DHS, whether or not her system complied with DHS regulations. The above Findings of Fact establish that Ms. Simmons personally filled in attendance sheets with dates and times that should have been filled out and verified by parents. Further, she repeatedly failed to assure that she had valid supporting documentation before submitting requests for payment.

Ms. Simmons statements that her focus was on actual child care more than record keeping may have been sincere, but her continued non-compliant billing practices constitute a failure to serve the public in a fair, honest and open manner as a licensee.

Therefore, Ms. Simmons does not meet the good moral character requirements of R 400.5102 (2)(b), as alleged in Count I of the Notice of Intent to Revoke.

Count II

Count II

Ms. Simmons acknowledged that she did not report her 2012 arrest and arraignment on felony fraud charges.

Therefore, the violation of MCL 722.115e alleged in Count II of the Notice of Intent to Revoke has been established.

Count III

The above Findings of Fact establish that from 2011 through 2013, Ms. Simmons had an ongoing practice of failing to maintain accurate records of daily attendance at her center that included each child's first and last name, and each child's arrival and departure time.

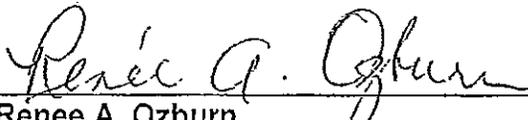
Therefore, the violation of R 400.5111(8) alleged in Count III of the Notice of Intent to Revoke has been established.

PROPOSED DECISION

The undersigned Administrative Law Judge proposes that the Director issue a Final Decision consistent with the above Findings of Fact and Conclusions of Law.

EXCEPTIONS

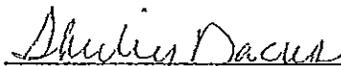
If a party chooses to file Exceptions to this Proposal for Decision, the Exceptions must be filed within fourteen (14) days after the date the Proposal for Decision is issued and entered. If an opposing party chooses to file a Response to the Exceptions, it must be filed within fourteen (14) days after Exceptions are filed. All Exceptions and Responses to Exceptions must be filed with the Michigan Administrative Hearing System, Department of Licensing and Regulatory Affairs, P.O. Box 30695, Lansing, Michigan 48909-8195, and served on all parties to the proceeding.



Renee A. Ozburn
Administrative Law Judge

PROOF OF SERVICE

I hereby state, to the best of my knowledge, information and belief, that a copy of the foregoing document was served upon all parties and/or attorneys of record in this matter by Inter-Departmental mail to those parties employed by the State of Michigan and by UPS/Next Day Air, facsimile, and/or by mailing same to them via first class mail and/or certified mail, return receipt requested, at their respective addresses as disclosed below this 28th day of July, 2014.



Shirley Dacus

Michigan Administrative Hearing System

Ollie Simmons
845 Westmoreland
Kalamazoo, MI 49006

Jason Scheeneman
Bureau of Children and Adult Licensing
201 N. Washington Square, 4th Floor
P.O. Box 30650
Lansing, MI 48909

Tiara McKay
Bureau of Children and Adult Licensing
322 East Stockbridge Avenue
Kalamazoo, MI 49001

Yolanda Sims
Bureau of Children and Adult Licensing
322 East Stockbridge Avenue
Kalamazoo, MI 49001

Jennifer Kerr
Bureau of Children and Adult Licensing
201 N. Washington Square, 4th Floor
P.O. Box 30650
Lansing, MI 48909



RICK SNYDER
GOVERNOR

State of Michigan
DEPARTMENT OF HUMAN SERVICES
BUREAU OF CHILDREN AND ADULT LICENSING



MAURA D. CORRIGAN
DIRECTOR

August 7, 2013

Ollie Simmons
845 Westmoreland
Kalamazoo, MI 49006

License #: DC390085921
SIR #: 2013D0298011

Dear Ms. Simmons:

Enclosed is a copy of a NOTICE OF INTENT TO REVOKE YOUR LICENSE to operate a child care center, alleging that you have violated the Child Care Organizations Act. Your options are as follows:

- 1) You may appeal the Notice of Intent and attend a pre-hearing compliance conference. A Notice of Compliance Conference, which provides the date, time, location, and guidelines of the conference, is enclosed.
- 2) You may appeal the Notice of Intent, waive the compliance conference, and proceed directly to an administrative law hearing.
- 3) You may choose not to appeal the Notice of Intent.

If you choose to appeal the Notice of Intent, the Department must receive your WRITTEN APPEAL within 30 days of your receipt of this Notice. If the Department does not receive your written appeal within 30 days of your receipt of this Notice, you will have WAIVED YOUR RIGHT to an administrative law hearing and the proposed action will be final.

Sincerely,

James B. Gale, Director
Bureau of Children and Adult Licensing

Enclosures

Cc: Yolanda Sims, Area Manager

STATE OF MICHIGAN
DEPARTMENT OF HUMAN SERVICES
BUREAU OF CHILDREN AND ADULT LICENSING

In the matter of

License #: DC390085921
SIR #: 2013D0298011

Ollie Simmons

NOTICE OF INTENT TO
REVOKE LICENSE

The Michigan Department of Human Services, by James B. Gale, Director, Bureau of Children and Adult Licensing, provides notice of the intent to revoke the license of Licensee, Ollie Simmons, to operate a child care center pursuant to the authority of the Child Care Organizations Act, 1973 PA 116, as amended, MCL 722.111 et seq., for the following reasons:

1. On or about August 23, 1999, Licensee was issued a license to operate a child care center, with a current licensed capacity of 20, at 833 W. South Street, Kalamazoo, Michigan 49007. Licensee also has another child care center, License #DC110288894.
2. Licensee has a history for overbilling the Department of Human Services (DHS) for child care services during times when children are not in attendance.

Specifically:

- a. In June 2003, Office of Inspector General Agent Robin Thomas received a complaint regarding Licensee's billing of child care services to DHS. From

July 9, 2006, to February 7, 2007, Licensee overbilled DHS for child care payments totaling \$1,639.32 based on a comparison of the parent's employment record and the child care hours submitted by Licensee. Licensee indicated that she no longer had the attendance records for the period of time and agreed to repay \$1,639.32.

- b. In July 2011, Office of Inspector General Agent Jessica Mitchell conducted an investigation regarding Licensee's billing of child care services to DHS. During the investigation, Licensee stated that she knew that parents had to sign attendance records but did not explain why she did not enforce this rule. Licensee stated she did not know that she had to document children's absences in the attendance record. Licensee admitted to billing DHS for 3,740 hours from February, 13, 2011, to July 2, 2011, that were not documented in attendance records. On August 29, 2011, Licensee signed a Provider Repayment Agreement acknowledging responsibility and agreeing to repay \$10,910.13.
3. In July 2012, Agent Mitchell received a complaint alleging that Licensee was overbilling DHS for child care hours and opened an investigation. During the investigation, Agent Mitchell reviewed child care billing and attendance records for a sample of seven families and interviewed five of the parents. All five of the parents interviewed stated that Licensee would give them a stack of attendance records to initial that were already filled out with the arrival and departure times of the children in care. Three of the five parents interviewed indicated that they had

observed the attendance records to be incorrect, reflecting the children to be present at times when they were not.

4. In her report date January 23, 2013, Agent Mitchell found that from July 3, 2011, to July 28, 2012, Licensee overbilled DHS for child care payments totaling \$104,024.15, based on the average overpayment of the seven sample families.
5. On or about November 2, 2012, Licensee was arrested and charged with Fraud – Welfare – Over \$500, a felony. Licensee failed to notify the Bureau of Children and Adult Licensing of her arrest and pending charges.
6. On February 15, 2013, Licensee pled guilty to Fraud – Welfare (Failure To Inform) – Less Than \$500, a misdemeanor. She was ordered to pay fines/costs/restitution totaling \$35,049 and sentenced to two days in jail and two years of probation.
7. On April 26, 2013, Licensing Consultant Tiara McKay and Area Manager Yolanda Sims interviewed Licensee and Dennis Simmons, her husband, regarding the fraud conviction and overbilling child care payments. Licensee stated the parents of the children were not accurately reporting their work schedules and that “the state was not overbilled; it was just different technicalities.” When asked how she would prevent overbilling in the future, Licensee told Ms. McKay that she “wants a better book on billing” from DHS. She stated that the only problem is “dealing with the state and their rules” and that she “can’t trust clients or caseworkers because they tell me things that don’t compute.”

COUNT I

The conduct of Licensee, as set forth in paragraphs 2, 3, 4, 5, 6, and 7 above, evidences a violation of:

R 400.5102 Licensee.

- (1) The licensee shall do all of the following:
 - (a) Demonstrate to the department that he or she is of good moral character as defined in 1974 PA 381, MCL 338.41 to 338.47, and is suitable to meet the needs of children.

[NOTE: MCL 338.41 "Good moral character" and "principal department" defined.

- (1) The phrase "good moral character", or words of similar import, when used as a requirement for an occupational or professional license or when used as a requirement to establish or operate an organization or facility regulated by this state in the Michigan Compiled Laws or administrative rules promulgated under those laws shall be construed to mean the propensity on the part of the person to serve the public in the licensed area in a fair, honest, and open manner.]

COUNT II

The conduct of Licensee, as set forth in paragraph 5 above, evidences a violation of:

MCL 722.115e Arraignment of licensee or employee; report; crimes; licensee or employee not convicted of crime; deletion of information from records; notice requirements.

- (1) A child care center or day care center licensee shall report to the department and an employee of a child care center or day care center shall report to that child care center or day care center within 3

business days after he or she has been arraigned
for 1 or more of the following crimes:

(a) Any felony.

COUNT III

The conduct of Licensee, as set forth in paragraphs 2 and 3 above, evidences a violation of:

R 400.5111 Children's records.

(8) The center shall maintain an accurate record of daily attendance at the center that includes each child's first and last name, and each child's arrival and departure time.

NOTICE IS GIVEN that, Licensee is offered the opportunity to show compliance with all lawful requirements for retention of the license. If Licensee appeals the Notice of Intent and compliance is not shown, formal proceedings will be commenced pursuant to the Child Care Organizations Act, 1973 PA 116, as amended, MCL 722.111 et seq., rules promulgated thereunder, and the Administrative Procedures Act, 1969 PA 306, as amended; MCL 24.201 et seq. Should formal proceedings commence, you have the right to attorney representation at your own expense.

LICENSEE IS NOTIFIED that pursuant to MCL 722.121(2) of the Child Care Organizations Act, Licensee has 30 days from the date of receipt of the Notice of Intent to file a written appeal of the proposed action. The appeal shall be addressed to

Jennifer Kerr, Departmental Analyst, Bureau of Children and Adult Licensing, Michigan Department of Human Services: Your written appeal must include your name and license number, and must be submitted using one of the following methods:

- Mail your written appeal to the Bureau of Children and Adult Licensing, P.O. Box 30650, Lansing, MI 48909. You should obtain some type of delivery confirmation to verify delivery;
- Fax your written appeal to the Bureau of Children and Adult Licensing at (517) 335-6121. You should keep a copy of your fax confirmation as proof of submittal; or
- Email your written appeal to DAUappeals@Michigan.gov. You should keep a copy of the sent email as proof of submittal.

LICENSEE IS FURTHER NOTIFIED that failure to file a written appeal of this action within 30 days will result in revocation of the license.

DATED: August 7, 2013

James B. Gale
James B. Gale, Director
Bureau of Children and Adult Licensing

This is the last and final page of a NOTICE OF INTENT in the matter of Ollie Simmons, DC390085921, consisting of six pages, this page included.

JEK

STATE OF MICHIGAN
DEPARTMENT OF HUMAN SERVICES
BUREAU OF CHILDREN AND ADULT LICENSING

In the matter of

License #: DC390085921
SIR #: 2013D0298011

Ollie Simmons

NOTICE OF COMPLIANCE CONFERENCE

Date: September 17, 2013

Time: 1:00 p.m.

Location: 322 East Stockbridge Avenue, Room A, Kalamazoo, MI 49001

Pursuant to the Administrative Procedures Act, MCL 24.292(1), you are afforded the opportunity to attend an informal compliance conference. The purpose of the compliance conference is to allow you to show that you were in compliance with the Child Care Organizations Act and the licensing rules promulgated thereunder. You have the right, at your expense, to have an attorney represent you at the compliance conference. You may also bring **one** support person to the compliance conference.

To enable a thorough discussion of the Notice of Intent at the compliance conference, please bring any documents, pictures, etc. that you would like the Department to consider. You may also submit documents to the Department prior to the compliance conference by emailing them to DAUappeals@Michigan.gov.

If you are unable to attend the compliance conference at the scheduled date and time, you may request, in writing, that the Department change the date and/or time. The Department will make all reasonable attempts to accommodate your request, but will not reschedule the compliance conference to a date more than 10 days after the scheduled date. If you promptly notify the Department of your inability to attend the compliance conference as scheduled, the Department may be able to schedule the compliance conference to a date earlier than originally scheduled.

If you are unable to show that you were in compliance with the Child Care Organizations Act and licensing rules, and a resolution cannot be reached, the Department will forward the matter to the Michigan Administrative Hearing System for the scheduling of a formal administrative hearing. The Michigan Administrative Hearing System will subsequently notify you of the date, time, and location of the administrative hearing.

All Department meetings and hearings are conducted in compliance with the Americans with Disabilities Act in buildings that accommodate mobility-impaired individuals and have accessible parking. If you require additional accommodations to participate in the compliance conference, please notify the Department at least one week in advance to make the necessary arrangements.

Please direct all written communications regarding the compliance conference or administrative hearing, including your license number, to the individual listed below:

Jennifer Kerr, Departmental Analyst
Disciplinary Action Unit
Bureau of Children and Adult Licensing
Michigan Department of Human Services
7109 W. Saginaw Hwy, 2nd Floor
P.O. Box 30650
Lansing, MI 48909-8150

STATE OF MICHIGAN
DEPARTMENT OF HUMAN SERVICES
BUREAU OF CHILDREN AND ADULT LICENSING

In the matter of

License #: DC390085921

SIR #: 2013D0298011

Ollie Simmons

PROOF OF SERVICE

The undersigned certifies that a copy of a Notice of Intent to revoke the license in the above matter was served upon the following persons by mailing the same to them at their address of record by certified mail on August 9, 2013.

Ollie Simmons
845 Westmoreland
Kalamazoo, MI 49006



Suzanne Bancroft, Executive Secretary
Bureau of Children and Adult Licensing