



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

CCB/169407

PRELIMINARY RECITALS

Pursuant to a petition filed October 14, 2015, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Winnebago County Department of Human Services in regard to Child Care, a hearing was held on November 10, 2015, at Oshkosh, Wisconsin.

The issue for determination is whether the agency properly discontinued the Petitioner's child care authorizations effective October 17, 2015.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

Department of Children and Families
201 East Washington Avenue, Room G200
Madison, Wisconsin 53703

By: Jeanie Ortiz

Winnebago County Department of Human Services
220 Washington Ave.
PO Box 2187
Oshkosh, WI 54903-2187

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [redacted]) is a resident of Winnebago County.
2. On August 27, 2015, the Petitioner contacted the agency and reported that he was taking 9 credits of classes at [redacted]. Petitioner reported that he was still working at [redacted] but his job

would end the next week. Petitioner was advised that he must continue working to be eligible for child care benefits. He was also advised that he must provide written verification of employment, income and school schedules.

3. On August 28, 2015, the agency issued a Notice of Proof Needed to the Petitioner informing him that he must provide verification of employment at [REDACTED] and verification of his school schedule. The due date for the verification was September 8, 2015.
4. On September 8, 2015, the Petitioner contacted the agency. He reported that he started classes at technical college, that his school hours are 8:00 a.m – 4:40 p.m. and that he “quit” his job at [REDACTED]. He also verbally reported the children’s school hours. No written verifications were provided by September 8, 2015.
5. The agency issued additional requests for employment and income verification on October 20, 2015, October 21, 2015, October 29, 2015, November 2, 2015.
6. On October 1, 2015, the agency received the Petitioner’s September work schedule from [REDACTED]. It reported that the Petitioner worked the following dates and hours in September, 2015.

September 22, 2015	1:00 p.m. – 4:30 p.m.
September 23, 2015	11:30 a.m – 4:00 p.m.
September 24, 2015	12:30 p.m. – 4:00 p.m.
September 25, 2015	12:00 p.m. – 4:15 p.m.
September 26, 2015	9:30 a.m – 10:30 a.m.
September 28, 2015	11:45 a.m. – 2:45 p.m.
September 29, 2015	12:45 p.m. – 3:45 p.m.

The agency did not receive any verification that Petitioner worked from August 30, 2015 – September 21, 2015.

7. On October 12, 2015, the agency issued a notice of child care authorization to the Petitioner informing him that attendance-based authorizations were issued as follows:

[REDACTED]	8/30/2015 – 9/19/2015	3 hours/week
	9/20/2015 – 9/25/2015	22 hours/week
	9/27/2015 – 10/3/2015	13 hours/week
[REDACTED]	8/30/2015 – 9/19/2015	12 hours/week
	9/20/2015 – 9/26/2015	31 hours/week
	9/27/2015 – 10/3/2015	21 hours/week

8. On October 21, 2015, the agency received a verification from [REDACTED] [REDACTED] [REDACTED] regarding Petitioner’s work study program beginning October 20, 2015. The agency did not receive any verification of employment during the period of August 30, 2015 – September 21, 2015.

9. For the period of August 30, 2015 – November 3, 2015, Petitioner’s class schedule was as follows:

Monday	Tuesday	Wednesday	Thursday	Friday
10 – 10:50A	9:25 – 12:05P	10 – 10:50A	9:25 – 12:05P	10 – 10:50A

10. For the period of August 30, 2015 – November 3, 2015, Petitioner’s children’s school schedules were as follows:

- |   | Monday      | Tuesday     | Wednesday   | Thursday    | Friday      |
|---|-------------|-------------|-------------|-------------|-------------|
| ■ | 8:10-11:10A | 8:10-11:10A | 8:10-11:10A | 8:10-11:10A | 8:10-11:10A |
| ■ |             | 8:10-11:10A |             | 8:10-11:10A |             |
11. On November 9, 2015, the agency issued a notice of child care authorization informing the Petitioner that attendance-based authorizations were issued as follows:
- |   |                        |               |
|---|------------------------|---------------|
| ■ | 10/4/2015 – 10/17/2015 | 5 hours/week  |
| ■ | 10/4/2015 – 10/17/2015 | 15 hours/week |
12. On November 30, 2015, the agency issued a notice of child care authorization informing the Petitioner that attendance-based authorizations were issued as follows:
- |   |                         |               |
|---|-------------------------|---------------|
| ■ | 10/18/2015 – 12/26/2015 | 27 hours/week |
| ■ | 10/18/2015 – 12/26/2015 | 33 hours/week |
13. On October 14, 2015, the Petitioner filed an appeal with the Division of Hearings and Appeals.

### DISCUSSION

Child Care Benefits are provided to W-2 participants who are working in unsubsidized employment, in job training, in a job search under the FoodShare program, or in an approved technical school program. Wis. Stat. § 49.155(1m)(a). Eligible persons receive enough hours of care each week to enable the parent(s) to participate in the approved activities, including lunch and break times, and travel time between the work-activity and the child care location. Child Care Manual, § 2.2.2.

In this case, the Petitioner disputes the number of child care hours authorized for his children between August 30, 2015 and November 3, 2015. The Petitioner was attending technical college during this time period. An individual attending technical college is eligible for child care benefits if the individual is working at least 5 hours/week or at least 20 hours/month. Child Care Manual, § 1.4.8.8.

While the agency usually does a prospective assessment of the number of child care hours required by a parent, in this case the agency assessed the need for Petitioner's child care for September and October, 2015 based on actual number of hours of school and work for the Petitioner and the children because the verification of work and school schedules was not submitted to the agency until after child care was provided.

At the hearing, the Petitioner argued that the amount of child care authorized in September and October, 2015 was not sufficient. The agency presented the information it received from the Petitioner and his employers regarding his work hours as well as information regarding school schedules. I note that despite numerous requests from the agency, the complete information was not fully provided until November. The agency never received verification that the Petitioner worked from August 30, 2015 – September 21, 2015. There were inconsistent statements in the record from the Petitioner regarding whether he worked during this period of time.

I reviewed the agency's determination of the number of hours of child care required by the Petitioner based on his school schedule, his work schedule and the children's schedules as provided at the hearing. I find that the agency properly considered the information and authorized the number of hours required including travel time. The Petitioner argued that he required more time because he goes from school to work. I find that the agency properly considered that time. For the period of August 30, 2015 – September 21, 2015, there was no verification that he was working despite the Petitioner's statements that he was. I note that the children's school schedules overlapped for the majority of the time with his own

school schedule. Thus, the need for child care was greatly reduced as the children were in school at the same time he was and he was not working.

I cannot find any error in the agency's determinations and the Petitioner did not specifically point to any error other than to state that the time was generally insufficient. Based on the evidence that was presented, I conclude the agency's determinations regarding authorizations for the months of September and October were correct.

### **CONCLUSIONS OF LAW**

The agency's determinations regarding authorizations for the months of September and October were correct.

**THEREFORE, it is**

**ORDERED**

That the Petitioner's appeal is dismissed.

### **REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or at your local library or courthouse.

### **APPEAL TO COURT**

You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Children and Families, 201 East Washington Avenue, Room G200, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 29th day of January, 2016

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\sDebra Bursinger  
Administrative Law Judge  
Division of Hearings and Appeals





**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on January 29, 2016.

Winnebago County Department of Human Services  
Child Care Benefits