



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

CCO/171362

PRELIMINARY RECITALS

Pursuant to a petition filed January 13, 2016, under Wis. Admin. Code § HA 3.03, to review a decision by the Milwaukee Early Care Administration - MECA in regard to Child Care, a hearing was held on February 10, 2016, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly determined that the petitioner was overpaid \$1,918.93 in child care benefits for the period from December 7, 2014 to July 31, 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:

Milwaukee Early Care Administration - MECA
Department of Children And Families
1220 W. Vliet St. 2nd Floor, 200 East
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES #) is a resident of Milwaukee County. She is a household size of two consisting of herself and her child.

2. On December 17, 2015 the agency sent the petitioner a notice stating that she was overpaid \$1,918.93 in child care benefits for the period from December 7, 2014 to July 31, 2015.
3. On August 6, 2014 the petitioner completed a renewal for her child care benefits. She reported working for [REDACTED] and [REDACTED]. The petitioner did not provide the agency timely verification of her income from [REDACTED]. Her case was set to close. She contacted the agency. On December 22, 2014 she provided the agency an employment verification of earnings form from [REDACTED], which stated that her employment ended August 1, 2014.
4. On September 23, 2014 the agency mailed the petitioner a notice stating that she was eligible for child care beginning September 1, 2014. The notice went on to state that she must report changes that would impact eligibility no later than 10 calendar days after the change.
5. The petitioner started working for [REDACTED] in December 2014. The petitioner did not report to the agency that she had begun working at [REDACTED] again. The petitioner continued to work for [REDACTED].
6. The petitioner's monthly gross income was as follows:
 - a. December 2014 - \$2,825.10
 - b. January 2015 - \$2,854.02
 - c. February 2015 - \$2,907.32
 - d. March 2015 - \$2,632.88
 - e. April 2015 - \$3,329.75
 - f. May 2015 - \$2,173.88
 - g. June 2015 - \$3,116.29
 - h. July 2015 - \$3,166.09
7. The petitioner received the following child care assistance:
 - a. December 2014 - \$437 (over 200% FPL, amount included in overpayment)
 - b. January 2015 - \$437 (over 200% FPL, amount included in overpayment)
 - c. February 2015 - \$375.83 (over 200% FPL, amount included in overpayment)
 - d. March 2015 - \$354.67 (under 200% FPL, amount NOT included in overpayment)
 - e. April 2015 - \$316.87 (over 200% FPL, amount included in overpayment)
 - f. May 2015 - \$421.53 (under 200% FPL, amount NOT included in overpayment)
 - g. June 2015 - \$193.57 (over 200% FPL, amount included in overpayment)
 - h. July 2015 - \$158.66 (over 200% FPL, amount included in overpayment)
8. On January 14, 2016 the Division of Hearings and Appeals received the petitioner's Request for Fair Hearing.

DISCUSSION

Wis. Stat., §49.195(3), provides as follows:

A county, tribal governing body, Wisconsin works agency or the department shall determine whether an overpayment has been made under s. 49.19, 49.148, 49.155 or 49.157 and, if so, the amount of the overpayment.... Notwithstanding s. 49.96, the department shall promptly recover all overpayments made under s. 49.19, 49.148, 49.155

or 49.157 that have not already been received under s. 49.161 or 49.19(17) and shall promulgate rules establishing policies and procedures to administer this subsection.

Child care subsidies are authorized in Wis. Stat., §49.155, and thus they are within the parameters of §49.195(3). Recovery of child care overpayments also is mandated in the Wis. Adm. Code, §DCF 101.23. An overpayment is any payment received in an amount greater than the amount that the assistance group was eligible to receive, regardless of the reason for the overpayment. Adm. Code, §DCF 101.23(1)(g). Recovery must occur even if the error was made by the agency.

In order to be eligible for child care assistance a family must meet the financial and non-financial eligibility requirements. The financial eligibility criterion for Childcare Assistance is that parents/caretakers must have a low income. *Day Care Manual (Manual)*, § 1.5. Specifically, new applicants cannot have income exceeding 185% of the Federal Poverty Level (FPL) and ongoing recipients cannot have income exceeding 200% FPL. *Id.* 200% of the FPL for a household size of two was \$2,622 from December 1, 2014 to February 28, 2015. It increased to \$2,655 effective March 1, 2015 through to end of this overpayment.

I have reviewed the agency's calculations and the calculations are correct. The petitioner's income increased above 200% FPL, and the petitioner never reported this to the agency. The petitioner argues that she provided the agency with something stating that she worked at [REDACTED] and that a lady ran the numbers and told her that she fine. The case comments do not reflect this. In addition, even if that was true, the petitioner's income increased again, and she failed to report that. Had the petitioner reported accurate information as she testified, she would not have received child care assistance because she was not eligible for assistance. It is the petitioner's responsibility to report any change that would impact her eligibility for assistance. She failed to report changes, which caused this overpayment.

CONCLUSIONS OF LAW

The agency correctly determined that the petitioner was overpaid \$1,918.93 in child care benefits for the period from December 7, 2014 to July 31, 2015.

THEREFORE, it is

ORDERED

That the petition 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 March, 2016

\sCorinne Balter
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 March 29, 2016.

Milwaukee Early Care Administration - MECA
Public Assistance Collection Unit
Child Care Fraud