



FH [REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
CCB- 174537

PRELIMINARY RECITALS

On May 20, 2016, the above petitioner filed a hearing request under Wis. Admin. Code §HA 3.03(4), to challenge a decision by the Sheboygan County Department of Human Services regarding Child Care (CC). The hearing was held on June 21, 2016, by telephone..

The issue for determination is whether the agency correctly terminated the petitioner's child care benefits (CCB) effective July 1, 2016.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Children and Families

[REDACTED]

Sheboygan County Department of
Human Services
3620 Wilgus Ave
Sheboygan, WI 53081

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Sheboygan County.
2. On March 21, 2016 the agency received information that the children's father picks the children up from daycare.

3. The agency reviewed the child support information. That information showed that the father's address was the same as the petitioner's address. The petitioner also reported to the child support agency on January 25, 2016 that she and the father were married and living together.
4. On March 31, 2016 the petitioner provided a hand written letter from the father's mother stating that the father was living in her home on [REDACTED] street in Milwaukee, WI.
5. The father works in Plymouth Wisconsin. All of the father's mail was being sent to the petitioner's address. The father reported the petitioner's address to his employer. The father's emergency contact information at the children's school also listed the petitioner's address. The father had a speeding ticket in November 2015. The address listed for the father on Wisconsin Circuit Court Access Program is the petitioner's address.
6. The father was on probation. His probation agent stated that he reported his mother's address on [REDACTED] street in Milwaukee, WI. The probation agent did not conduct a home visit to verify the father's residence.
7. Following their investigation, the agency added the father to the petitioner's case effective July 1, 2016. The petitioner's household size was five consisting of herself, the father, and three children.
8. The father's gross income from January 1, 2016 through May 7, 2016 was \$9,901.12. The petitioner's monthly gross income was \$926.97 in February 2016.
9. The petitioner's Child Care Benefits (CCB) terminated effective July 1, 2016.
10. On May 20, 2016 the Division of Hearings and Appeals received the petitioner's Request for Fair Hearing.

DISCUSSION

The purpose of the Wisconsin Shares Child Care Program is to provide child care assistance for working low-income families. *Child Care Manual* § 1.1.1. The Wisconsin Shares Child Care Program is regulated under DCF 201 Administration of Child Care Funds (administrative code) and Wisconsin Statutes s. 49.155 Stats. *Child Care Manual* § 1.1.1.

A person applying for childcare assistance must meet financial and non-financial eligibility standards. The financial eligibility standards require a gross income below 185% of the federal poverty level (FPL). *Childcare Policy Manual* § 1.5.1.1. For continued eligibility the gross income must remain below 200% FPL. *Childcare Policy Manual* § 1.5.1.2. 185% FPL for a household size of 5 is \$4,380.80. 200% FPL for a household size of 5 is \$4,736. These are monthly gross income amounts.

The non-financial eligibility standards require that there be a necessity for a parent to have childcare in order to go to her job or perform an "approved activity." *Childcare Policy Manual*, §1.4.8. Department policy contains a specific list of "approved activities" that justify the need for CC benefits. The lists identifies these activities as: high school attendance, unsubsidized employment, pre-job training not exceeding two weeks' duration, contractual apprenticeship, sheltered employment, some self-employment, W-2 jobs, FSET participation, some ESL/literacy education, and some technical college programs if the participant is employed at least five hours per week during the semester. *Manual*, §1.5.0-1.5.7.

In this case I agree with the agency that the father was in the petitioner's home. The petitioner disputed this point. However, the agency provided ample evidence showing he was in the home. All of the father's mail was being sent to the petitioner home, the father reported the petitioner's address to his employer, the father's emergency contact information at the children's school was the petitioner's address, and the father provided the petitioner's address when stopped for a speeding ticket in November 2015. Although the father reported a different address to his probation agent, the agent never conducted a home visit to verify that residence.

Even though I agree with the agency that the father was in the petitioner's home, I am not certain that termination of the petitioner's childcare benefits was correct. The household's gross income appears to be under \$3,000 per month. This is less than 185% and 200% FPL. It appears that based on this household's income, the household would be eligible for childcare benefits when both parents are working.

I note that the most recent income presented for the petitioner was from February 2016. In addition, no evidence was presented showing both parents' work schedules. Thus, I am remanding this case to the agency to re-determine the household's eligibility for childcare assistance. The agency should verify income and work schedules for both parents to determine continued eligibility for childcare assistance.

CONCLUSIONS OF LAW

The agency incorrectly terminated the petitioner's child care benefits (CCB) effective July 1, 2016.

THEREFORE, it is

ORDERED

That this case is remanded to the agency to re-determine the household's eligibility for childcare assistance. The agency should verify income and work schedules for both parents to determine continued eligibility for childcare assistance. The household should include both the petitioner and the father. The agency shall comply with this order within 10 days of the date of decision.

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, **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).

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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 13th day of July, 2016

\s _____
Corinne 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 July 13, 2016.

Sheboygan County Department of Human Services
Child Care Benefits