



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]

DECISION

CCB/140907

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**PRELIMINARY RECITALS**

Pursuant to a petition filed May 10, 2012, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Kenosha County Human Service Department in regard to Child Care, a hearing was held on July 24, 2012, at Kenosha, Wisconsin.

The issue for determination is whether petitioner's appeal was timely filed.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]

Respondent:

Department of Children and Families  
201 East Washington Avenue, Second Floor  
Madison, Wisconsin 53703 -2866

By: Karen Mayer, Fair Hearing Representative  
Kenosha County Human Service Department  
8600 Sheridan Road  
Kenosha, WI 53143

**ADMINISTRATIVE LAW JUDGE:**

Michael A. Greene  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Kenosha County.
2. Petitioner applied for child care benefits on January 5, 2012. On January 24, 2012, the agency sent petitioner a request for additional information and a request for a signature page (Exhibit 3). No signature page was received.

3. On February 24, 2012, the agency sent petitioner a notice of decision advising her that her application for child care benefits had been denied (Exhibit 2). The last day for filing for a fair hearing was April 9, 2012, *id.*
4. Petitioner's appeal was filed on May 10, 2012 with the Division of Hearings and Appeals.

### **DISCUSSION**

A hearing officer can only hear cases on the merits if he or she has jurisdiction to do so. There is no jurisdiction if the hearing request is untimely. An appeal of a negative action by a county agency concerning child care benefits must be filed within 45 days of the effective date of the negative action, Wis. Admin. Code §HA 3.05(3)(a). The negative action in this case was the denial of petitioner's child care benefits for February 2012 and the effective date of that negative action was February 24, 2012, the date of the notice. The petitioner's request for hearing was filed with the Division of Hearings and Appeals on May 10, 2012, 76 days after the effective date of the negative action. Thus, the hearing request was untimely and I do not have jurisdiction to consider the merits of the case, Wis. Admin. Code §HA 3.05(4)(e).

### **CONCLUSIONS OF LAW**

This administrative law judge does not have jurisdiction over this appeal because it was not timely filed.

**THEREFORE, it is**

**ORDERED**

That the petition for review herein be and hereby is dismissed.

### **REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found 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 appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Children and Families. After filing the appeal with the appropriate court, it must be served on the Secretary of that

Department, either personally or by certified mail. The address of the Department is: 201 East Washington Avenue, Second Floor, Madison, Wisconsin 53703-2866. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 4th day of September, 2012

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Michael A. Greene  
Administrative Law Judge  
Division of Hearings and Appeals

c: Kenosha County Human Service Department - email  
Department of Children and Families - email



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

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The preceding decision was sent to the following parties on September 4, 2012.

Kenosha County Human Service Department  
Child Care Benefits