



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]

DECISION

CCO/143193

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**PRELIMINARY RECITALS**

Pursuant to a petition filed August 17, 2012, under Wis. Admin. Code § HA 3.03, to review a decision by the Kenosha County Human Service Department in regard to Child Care, a hearing was held on October 23, 2012, at Kenosha, Wisconsin.

The issue for determination is whether the agency properly sought repayment of an overissuance of Child Care Benefits.

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  
Madison, Wisconsin 53703

By: Karen Mayer, Fair Hearing Representative  
Matt Leys, Child Care Fraud Accountant  
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. Between April 1, 2012 and July 31, 2012, petitioner used child care benefits.

3. During the period between April 1, 2012 and July 31, 2012 an audit of petitioner's work schedule and log of activities in the Wisconsin Works program (Exhibits 4 and 5) was compared to the hours for which she had used child care benefits. The audit revealed numerous discrepancies.
4. On August 9, 2012, the agency issued a Child Care (CC) Overpayment Notification advised petitioner that it had opened claim number [REDACTED] in order to recover an overpayment of Child Care benefits made between April 1, 2012 and July 31, 2012 in the amount of \$1,525.35 (Exhibit 1).

### **DISCUSSION**

Wisconsin Works (W-2) is a collection of programs that is designed to assist lower-income individuals in the transition to unsubsidized employment. The child care benefit is provided for those individuals who require child care in order to work, attend school or engage in other approved W-2 activities, Wis. Stat. §49.155. Indeed, work, school or other approved W-2 activities are required for eligibility in the child care subsidy program, Wis. Stat. 49.155(1m). Child care benefits may not be used when the participant is engaged in other pursuits.

In the present case, petitioner admitted that her W-2 logs were not entirely accurate, essentially admitting that a portion of the child care benefits paid on her behalf were not used for activities approved under the program. Her assertion that she did not know that her logs were used to prove child care is simply an expression to the effect that she did not know that she could get caught. In any event, the agency's audit demonstrates that not all of the hours during which petitioner was using child care were actually being used for activities listed under Wis. Stat. §49.155(1m). The lack of an approved activity creates an overpayment which was properly imposed in this case.

### **CONCLUSIONS OF LAW**

Petitioner incurred an overpayment of child care benefits where her W-2 logs did not show that she had been engaged in approved activities during the period for which she received benefits.

**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 served and 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, Madison, Wisconsin 53703. 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 14th day of December, 2012

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\sMichael A. Greene  
Administrative Law Judge  
Division of Hearings and Appeals



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

David H. Schwarz  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on December 14, 2012.

Kenosha County Human Service Department  
Public Assistance Collection Unit  
Child Care Fraud