



FH  
[REDACTED]

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

---

In the Matter of

[REDACTED]

DECISION

CCO/143244

---

**PRELIMINARY RECITALS**

Pursuant to a petition filed August 18, 2012, under Wis. Admin. Code § HA 3.03, to review a decision by the Milwaukee Early Care Administration in regard to Child Care, a hearing was held on October 23, 2012, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly seeks to recover an overpayment of \$3,508.92 from the Petitioner for child care benefits overissued during the period of October 23, 2012 – March 31, 2012.

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: Daryl Caper

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

**ADMINISTRATIVE LAW JUDGE:**

Debra Bursinger  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.

2. Until October, 2011, the Petitioner was employed with DJO and with BuySeasons. She was eligible for and received child care benefits during her employment. Her employment with DJO ended on October 13, 2011. Her employment with BuySeasons ended on October 18, 2011. The Petitioner did not report to the child care agency that she was no longer employed until March 13, 2012.
3. On November 1, 2011, the Petitioner submitted a Six Month Report Form (SMRF) to the agency with two pay stubs dated September 23, 2011 and October 7, 2011. Petitioner did not report that her employment had ended. Authorizations for child care were continued on November 30, 2011.
4. On December 6, 2011, the Petitioner started attending school at Milwaukee Area Technical College (MATC), taking classes to obtain an associate's degree. She is continuing to attend MATC.
5. On March 21, 2012, the Petitioner applied for W-2. On April 16, 2012, her application was approved.
6. On August 2, 2012, the agency issued a Child Care Overpayment Notice and worksheet notifying the Petitioner that the agency is seeking to recover child care benefits in the amount of \$3,508.92 that were overissued during the period of October 23, 2012 – March 31, 2012. The notice advised the Petitioner that the basis for the overpayment is the Petitioner's failure to advise the agency within 10 days of termination of her employment and for non-participation in an approved W-2 activity during the overpayment period.
7. On August 18, 2012, the Petitioner filed an appeal with the Division of Hearings and Appeals.

### DISCUSSION

Wis. Stat. § 49.155 authorizes the department to operate a child care subsidy for Wisconsin Works (W-2) recipients and working parents. The subsidy program is known as Wisconsin Shares. The Department of Children and Families has a Wisconsin Shares Child Care Manual that provides the specific activities, policies and eligibility requirements (including a discussion of income limits and other non-financial requirements) to qualify for the program.

The purpose of the Wisconsin Shares Child Care program is to provide child care assistance for working low-income families; working foster parents, kinship care relatives providing care under a court order and receiving kinship care benefits, and subsidized guardians/interim caretakers in Milwaukee County; and for individuals who are preparing for employment through Wisconsin Works, Food Share Employment and Training Program, tribal Temporary Assistance for Needy Families (TANF), or are in high school and working on their high school diploma.

Wisconsin Shares Child Care Manual, Section 1.1.1.

A parent is eligible for child care services if he/she needs the care to:

Work in an unsubsidized job, including training provided by an employer during the hours of employment. Wisconsin Shares Child Care Manual, § 1.5.3

or

Participate in a course of study at a technical college or participate in a course of study that would produce an employment skill as determined by the department if the county Human Services or other agency or its subcontracted eligibility determination agency determines that the course or courses would facilitate the individual to maintain employment. Wisconsin Shares Child Care Manual § 1.5.7.

In this case, when petitioner ended her employment, without obtaining a new job or enrolling in W-2 activities, she lost her eligibility for child care benefits. At the hearing, Petitioner did not dispute that she did not inform the agency within 10 days that her employment had ended. The Petitioner presented information to show that she enrolled in classes at MATC in December, 2011 and that she was enrolled in a bartending class. However, she failed to apply for W-2 or get approval for these activities according to the Wisconsin Shares regulations until March, 2012. Once her employment ended, she lost her eligibility for child care until she was enrolled in and participating in an approved activity. Therefore, I must conclude that the agency correctly seeks to recover child care benefits for the period of October 23, 2011 – March 31, 2012. I have reviewed the agency's overpayment worksheet and conclude that the amount of overpaid benefits is accurate.

### **CONCLUSIONS OF LAW**

The agency properly seeks to recover an overissuance of child care benefits to the Petitioner in the amount of \$3,508.92 for the period of October 23, 2011 – March 31, 2012.

**THEREFORE, it is ORDERED**

That the petition 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 10th day of December, 2012

---

\sDebra Bursinger  
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 10, 2012.

Milwaukee Early Care Administration  
Public Assistance Collection Unit  
Child Care Fraud