



FH
[REDACTED]

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

In the Matter of

[REDACTED]

DECISION

CCB/143338

PRELIMINARY RECITALS

Pursuant to a petition filed August 24, 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 November 07, 2012, at Kenosha, Wisconsin.

The issue for determination is whether Petitioner's child care was correctly discontinued for failing to provide verification.

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

Kenosha County Human Service Department
8600 Sheridan Road
Kenosha, WI 53143

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Kenosha County.
2. Petitioner completed a renewal for the child care program, as required, by May 31, 2012.
3. As part of the renewal process Petitioner was asked to submit verification of income. It was due by June 22, 2012.

4. The agency has no of receipt of the requested verification so terminated Petitioner's child care effective June 1, 2012.
5. Petitioner subsequently reapplied for child care; that application was approved in benefits issued effective August 1, 2012.

DISCUSSION

An agency has an obligation to request verification in writing:

1.7.4 Informing Applicant of Items Needed

The applicant must be informed in writing of the verification items that are needed along with a due date.

Wisconsin Shares Child Care Assistance Manual (Manual), §1.7.4.

Once requested, the applicant/recipient has an obligation to provide the verification:

1.7.3 Responsibility for Providing Verification

The Wisconsin Shares child care assistance applicant has the primary responsibility for providing verification and resolving questionable information.

Manual, §1.7.4.

Here there is a 60 day gap in Petitioner's child care benefit; from the June 1, 2012 discontinuance to July 31, 2012.

The resolution of this case centers on the question of credibility. Petitioner testified that her income verification was submitted to the agency as required by June 22, 2012. She indicated that her mother faxed it to the agency from her workplace. Petitioner testified that her mother presented her with a copy of the fax confirm but that she, Petitioner, did not keep it. Nonetheless, Petitioner's testimony was credible. She related the facts confidently and without drama, leading me to conclude that she was credible. I am, therefore, directing that P etitioner's child care be restored as of June 1, 20 12. (There is no question that all of the income information necessary was submitted again in August 2012, so the agency does have that income information. That information demonstrated that Petitioner was eligible for child care.)

CONCLUSIONS OF LAW

That Petitioner's child care was incorrectly terminated on June 1, 2012 for failing to provide verification.

THEREFORE, it is

ORDERED

This case is remanded to the agency with instructions to restore Petitioner's child care eligibility back to June 1, 2012. The agency must do this within 10 days of the date of this decision.

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

\sDavid D. Fleming
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 December 14, 2012.

Kenosha County Human Service Department
Child Care Benefits