



FH
[REDACTED]

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

In the Matter of

[REDACTED]

DECISION

CCB/143561

PRELIMINARY RECITALS

Pursuant to a petition filed September 04, 2012, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Winnebago County Department of Human Services in regard to Child Care, a hearing was held on September 27, 2012, at Oshkosh, Wisconsin.

The issue for determination is whether respondent correctly denied petitioner's application for Child Care benefits due to household income in excess of program limits.

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: Leslie Vosters

Winnebago County Department of Human Services
220 Washington Ave.
PO Box 2187
Oshkosh, WI 54903-2187

ADMINISTRATIVE LAW JUDGE:

Peter McCombs (telephonically)
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Winnebago County.
2. Petitioner, via a power of attorney document presently has placement of a minor child, L.R., due to mental health issues facing L.R.'s mother.

3. On or about August 13, 2012, petitioner commenced her application for child care assistance. Exhibit 3. Respondent denied petitioner's application on August 29, 2012, citing income over the program limit. The notice indicated that petitioner's gross income of \$4,758.00 exceeded the gross income limit of \$2,943.00 by \$1,815.60.

DISCUSSION

All child care funding distribution falls under the auspices of the Wisconsin Works (W-2) program, regardless of whether or not the applicant is actually a participant in W-2 activities. See WI Stat § 49.155(1m).

The county agency asserted that the petitioner is not entitled to Child Care Benefits because the household gross earned income exceeds the eligibility limit. The *Child Care Policy Manual* states the following:

1.6.2 Income Limits

The applicant's Assistance Group must meet the program's income guidelines to be financially eligible for Wisconsin Shares child care assistance :

The income limit for new applicants, including cases that have closed for more than thirty days, is 185% federal poverty level (FPL) for the Assistance Group family size (excludes foster parents, kinship care parents, and subsidized guardians/interim caretakers in Milwaukee County, see below).

1.6.3 Maximum Income for On-Going Cases

The maximum income for any family to remain eligible for Wisconsin Shares child care assistance is 200% FPL.

See, Manual, Chapter 1, at §1.6.2 and 3.

The petitioner is not disputing the calculation of her household income, but instead asserts that because she is not the mother, and she only has temporary placement of the child at issue here, she should be entitled to Child Care assistance. Respondent counters that, because the placement is not court-ordered, Kinship, or fostercare, she does not qualify for any income calculation exclusions. Therefore, her income exceeds the program limits. Petitioner acknowledges that she has a power of attorney allowing her placement of the minor child, but she is not participating in Kinship, fostercare, and the placement is not court-ordered.

While petitioner may be non-financially eligible for Child Care benefits, her household income clearly exceeds the established maximum limit. The respondent has demonstrated that it has correctly based its denial of petitioner's application for Child Care based upon petitioner's financial ineligibility.

CONCLUSIONS OF LAW

Petitioner's household income exceeds the income limit established for Child Care assistance.

THEREFORE, it is

ORDERED

That the petition for review herein be and the same is hereby 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 Madison,
Wisconsin, this 21st day of December, 2012

\sPeter McCombs
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 21, 2012.

Winnebago County Department of Human Services
Child Care Benefits