



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

CCB/143880

PRELIMINARY RECITALS

Pursuant to a petition filed September 15, 2012, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Columbia County Health & Human Services in regard to Child Care, a hearing was held on November 02, 2012, at Portage, Wisconsin.

The issue for determination is whether the Department erred in its determination not to grant backdated ChildCare eligibility prior to August 1, 2012 based on petitioner's failure to provide employee verification prior to that date.

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: Sandy Vandemark

Columbia County Health & Human Services
2652 Murphy Rd
PO Box 136
Portage, WI 53901

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Columbia County.
2. Petitioner was receiving Child Care Program benefits in 2012. She was due for a case interview and renewal in June 2012. Petitioner participated in the interview and renewal on June 29, 2012. At that time she stated that she was not working, but would be employed very soon.

3. The Department found petitioner eligible and allowed her until July 11 to provide proof of participation in an approved child care activity. The Department also mailed a notice to petitioner on July 3 informing her of this requirement and stating the July 11 deadline.
4. Petitioner did not provide that verification by July 12, 2012.
5. On July 12, 2012, the Department mailed notice to petitioner informing her that effective July 1 she could not be eligible for Child Care benefits as she was not participating in an approved activity.
6. On August 24, 2012, petitioner called her worker and asked that her child care be backdated to July 1, 2012. The county agency informed petitioner that she would need to re-apply as her case was not open.
7. Petitioner re-applied and was granted benefits back to August 1, 2012.
8. Petitioner filed an appeal on September 17, 2012 from the denial of backdating to July 1, 2012.

DISCUSSION

Wis. Stat., §49.155 authorizes the department to operate a child care subsidy for Wisconsin Works (W-2) recipients and working parents. The department has a Child Day Care Manual that provides the specific policies for the program. Eligibility for child care runs for six month periods. Manual, Chapter 1, §1.15.3.

The Wisconsin Child Day Care Manual provides that the county agency can request any information that is necessary and appropriate in order to make a correct eligibility decision. *Child Care Manual 1.71*. As the applicant, petitioner had the primary responsibility for providing verification. *Child Care Manual 1.7.3*. The county agency must inform the applicant in writing of the verification items that are needed along with a due date. *Child Care Manual 1.7.4*. If the applicant fails to produce the information, no eligibility shall exist. *Child Care Manual 1.7.7*. Rather, the application may be denied or the case may be closed. *Child Care Manual 1.7.7*.

The Department sent a written notice to petitioner on July 3, 2012. Petitioner claims that she never received this notice although it was mailed to her correct mailing address. The notice was not returned to the Department as undelivered. Petitioner speculated that the post office lost the mail. But petitioner does not establish that on this record. I must conclude that the notice was properly delivered as it was mailed to the correct address and not returned. The notice clearly requested: “**Employment Verification Form (EVF-E); or statement from your employer, on company letterhead ...; Enrollment Document from FSET or W-2; or School Records for enrollment in program leading to a high school diploma or GED .**” The agency representative also testified that she informed petitioner of the need to send in verification when she conducted the telephone interview on June 29, 2012.

Petitioner does not argue that she sent any of these items. She testified that she faxed in a CC authorization sheet. She also testified that she called her county agency and reported her employment over the telephone on July 20, 2012. The agency has no record of that phone contact in its case comments system. But, it does not matter. The petitioner did not supply the requested documents. Even if she made the phone call, that is not the verification that was clearly required by the July 3 notice. By the time she claims she called on July 20, 2012, her case had been closed. However, I cannot find on this record that petitioner actually made that call.

The agency was correct to have petitioner re-apply. It is also correct that the benefits can only be backdated to the first of the month in which the application was filed and eligibility was found – that was August 1, 2012.

CONCLUSIONS OF LAW

The Department did not err in its denial of the request to backdate eligibility of CC benefits to July 1, 2012.

THEREFORE, it is

ORDERED

That this appeal 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 Madison,
Wisconsin, this 20th day of December, 2012

\sJohn P. Tedesco
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
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on December 20, 2012.

Columbia County Health & Human Services
Child Care Benefits