



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

CCB/145303

PRELIMINARY RECITALS

Pursuant to a petition filed November 14, 2012, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Eau Claire County Department of Human Services in regard to Child Care, a hearing was held on December 19, 2012, at Eau Claire, Wisconsin.

The issue for determination is whether the county agency correctly added depreciation back into income when determining the petitioner's household self-employment income and child care eligibility.

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: Kathy Welke

Eau Claire County Department of Human Services
721 Oxford Avenue
PO Box 840
Eau Claire, WI 54702-0840

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien

Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Eau Claire County.
2. The petitioner lives with her husband and seven children, five of whom receive child care.

3. The petitioner's husband owns a towing service. He reported \$32,212 in net profit on their 2011 federal income tax return. In addition he claimed \$55,442 in depreciation on his equipment.
4. The petitioner earns \$3,612 per month.
5. The county agency denied the petitioner's request for child care benefits because her countable household's income exceeds 185% of the federal poverty level.
6. One hundred eighty-five percent of the federal poverty level for a nine-person household is \$6,606.04 per month.

DISCUSSION

Child Care Benefits are provided to W-2 participants who are working in unsubsidized employment, in job training, in a job search under the FoodShare program, or in an approved technical school program. (Benefits are also allowed to those in high school or under 20 years old, but the petitioner is older than that.) Wis. Stat. § 49.155(1m)(a). The income limit for new applicants is 185% of the federal poverty level. Wis. Stat. § 49.155(1m)(c). When determining eligibility, depreciation is added back into income. Wis. Stat. § 49.155(1m)(c)1.b. For a nine-person household, the size of the petitioner's, 185% of the federal poverty level is \$6,606.04. The petitioner lives with her husband and their seven children. She seeks child care assistance for five of the children. The county agency denied her application after determining that her household income exceeds 185% of the federal poverty level.

The petitioner's husband owns a towing business. In 2011, he reported \$32,212 in net profit after deducting \$55,442 in depreciation. In addition, the petitioner earns about \$3,000 per month. After depreciation is added back into self-employment income, the agency determined that their total monthly household income is \$10,119.63. The petitioner does not dispute these figures but disagrees with the policy requiring the agency to add depreciation back into income. While I understand her position, I must follow the law as it is written. Because her income exceeds 185% of the federal poverty level after the county agency correctly denied her application.

CONCLUSIONS OF LAW

1. The county agency correctly added depreciation back into income when determining the petitioner's household self-employment income.
2. The county agency correctly determined that the petitioner is ineligible for child care benefits because her income exceeds 185% of the federal poverty level.

THEREFORE, it is

ORDERED

The petitioner's 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

\sMichael D. O'Brien
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 20, 2012.

Eau Claire County Department of Human Services
Child Care Benefits