



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

CCO/143743

PRELIMINARY RECITALS

Pursuant to a petition filed September 11, 2012, under Wis. Admin. Code § HA 3.03, to review a decision by the Milwaukee County Department of Human Services in regard to Child Care, a hearing was held on November 6, 2012, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly sought recoupment of an overpayment of Child Care benefits made during April and May 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: Keisha Lane, Child Care Subsidy Specialist
Milwaukee County Department of Human Services
1220 W. Vliet Street
1st Floor, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Michael A. Greene
Division of Hearings and Appeals

FINDINGS OF FACT

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

2. Petitioner was employed Safe Haven Adult Care during portions of 2012. According to the state wage record, petitioner's employer did not report any wages paid to petitioner during the second quarter of 2012 (Exhibit 9). Petitioner continued to use Child Care benefits during this period.
3. On August 1, 2012, the agency sent petitioner a Child Care (CC) Overpayment Notification advising her that had opened claim number [REDACTED] in order to collect an overpayment of Child Care benefits made in April and May 2012 in the amount of \$1,297.20 (Exhibit 1). A worksheet indicating how the overpayment was calculated was also sent (Exhibit 8).

DISCUSSION

Wisconsin Works (W-2) is a collection of programs that is designed to assist lower-income households in finding unsubsidized employment. The Child Care benefit provides a subsidy to individuals who require child care in order to attend school, work or engage in other approved activities, Wis. Stat. §49.155(1m). As there is no record that petitioner is engaged in any other activity, she was not eligible for Child Care benefits during the period that she was not working.

As part of its unemployment insurance program, the state of Wisconsin requires each employer to file quarterly reports as to wages paid to each employee during each calendar quarter, Wis. Stat. §108.205. While petitioner's employer had filed reports for wages paid to petitioner for previous quarters and for the third quarter of 2012, there were no wages reported for the second quarter of 2012. The obvious conclusion to be drawn from this is that petitioner did not work during that period.

Petitioner's testimony was vague and centered on the allegation that her employer was "in trouble" for not paying taxes. She was asked if she had pay stubs from April and May 2012 and she answered affirmatively. The record was held open for ten days to allow petitioner to provide copies of the pay stubs; no material was received. I am of the view that petitioner did not work in April and May 2012 and that recoupment of the overpayment is being properly pursued.

CONCLUSIONS OF LAW

Where petitioner's employer reported no wages on its state unemployment compensation wage report, petitioner was not working in subsidized employment and was not eligible for Child Care benefits for that period.

THEREFORE, it is

ORDERED

That the petition for review herein 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 16th day of January, 2013

\sMichael A. Greene
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 January 16, 2013.

Milwaukee County Department of Human Services
Public Assistance Collection Unit
Child Care Fraud