



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

AMENDED DECISION

CCO/143918

PRELIMINARY RECITALS

Pursuant to a petition filed September 17, 2012, under Wis. Admin. Code §HA 3.03, to review a decision by the Milwaukee Early Care Administration in regard to Child Care, a hearing was held on December 4, 2012, at Milwaukee, Wisconsin. On January 15, 2013 a Final Decision was issued by the Administrative Law Judge (ALJ). A rehearing was thereafter requested by the Department of Children and Families (DCF) on January 30, 2013. The request for a rehearing received January 30, 2013 is hereby denied.

Pursuant to sec. 227.49, Wis. Stats., a rehearing may be granted only on the basis of a material error of law or fact or upon the discovery of new evidence sufficiently strong to reverse or modify the order and which could not have been discovered previously by due diligence. The petition must specify in detail the grounds for the relief sought and supporting authorities. The request does not establish the grounds necessary for granting a rehearing in this matter. No reason was given in the rehearing request as to why the other overpayment hearing (CCO/143894), of which this ALJ had no knowledge, was not raised as part of the instant appeal. Further, Wis. Adm. Code §DCF 101.23(3)(a) and (b) is inapplicable here because liability under that section only extends to a non-marital coparent who was an adult member of the household during the period tested. The ALJ concluded in the Final Decision that the nonmarital coparent was not a member of the household in the tested overpayment periods. Thus, he meets an exception to the liability statement found in that section.

This is an order disposing of a petition for rehearing. Parties having standing to appeal may file a petition to Circuit Court under §227.53 of the Wisconsin Statutes. A petition to Circuit Court must be filed no more than 30 days after the date of a denial of a timely rehearing petition. An appeal must be served on the Department of Children and Families, 201 East Washington Avenue, Madison, Wisconsin 53703, as respondent. Copies of the appeal must also be served on all other 'Parties in Interest' identified in the original administrative hearing decision in this case.

The arguments raised by the DCF's rehearing request, however, do lead me to conclude that the Order in that Final Decision requires clarification.

THEREFORE, the following Order replaces the Order in the original Final Decision:

THEREFORE, it is

ORDERED

The matter is remanded to the agency to: (1) rescind overpayment claim # [REDACTED], claim # [REDACTED] and claim #900362640 against the petitioner only within 10 days of the date of this decision; (2) immediately issue a verification request to petitioner regarding petitioner's employment as

an Approved Activity, providing the petitioner with 10 days to verify. 3) If timely verification is received, then the agency shall redetermine whether the Approved Activity verification causes petitioner to be eligible or ineligible for child care between 12/4/11-5/31/12, and to issue a notice of decision regarding same. These actions shall be completed within 10 days of receipt of timely verification. 4) In the alternative, if timely verification is not received, then the petition for review herein is dismissed as to this claim (claim # [REDACTED]). In all other respects, the petition for review herein is dismissed, and the request for a rehearing received January 30, 2013 is hereby denied.

Given under my hand at the City of Milwaukee,
Wisconsin, this 8th day of February, 2013

\s

Kelly Cochrane
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 February 14, 2013.

Milwaukee Early Care Administration
Public Assistance Collection Unit
Child Care Fraud