



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

CCO/144984

PRELIMINARY RECITALS

Pursuant to a petition filed November 05, 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 January 10, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether petitioner was overpaid child care benefits when she was working as a babysitter because that is not an approved child care activity.

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: Tamika Terrell

Milwaukee Early Care Administration
Department of Children And Families
1220 W. Vliet St. 2nd Floor, 200 East
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco

Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner received child care benefits in the amount of \$221.70 between 9/9/12 and 9/30/12.
3. During that period, petitioner was working for a family as a babysitter.

4. The Department issued an overpayment notice on 10/22/12 for this amount and for this period.
5. Petitioner filed a timely appeal.

DISCUSSION

The County must determine whether an overpayment of W-2 CC has been made and, if so, the amount of the overpayment. Wis. Stat. § 49.195(3); See also Wis. Admin. Code §§ DCF 101.23 & 201.04(5)(a); *Child Care Assistance Manual* 2.3.1.

A person is eligible for W-2 CC only if the person is participating in an approved activity. *W-2 Manual* 15.2.0.; See also, Wis. Stat § 49.155(1m)(a); Wis. Admin. Code § DCF 101.26(1); Wis. Admin. Code § DCF 201.04(5)(a)2.b.; *Child Care Assistance Manual* 1.5.0.

The facts in this case are undisputed. The only issue is whether the babysitting endeavor undertaken by petitioner was an approved child care activity. If it was, petitioner was eligible for benefits. If not, petitioner was not eligible for the program and should not have been getting child care benefits. Petitioner does not dispute the amounts claimed to have been paid out to her by the Department.

Babysitting is not an approved child care activity. According to the Child Care Policy Manual at Section 1.5.3.7: “[s]elf-employment as an unregulated child care provider is not allowable as an approved activity for Wisconsin Shares child care assistance eligibility.” Petitioner was, thus, not engaged in an approved activity and the benefits paid were overissued.

CONCLUSIONS OF LAW

The Department did not err in determining a child care overpayment in the amount of \$221.70.

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 8th day of February, 2013

\sJohn P. Tedesco
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 February 8, 2013.

Milwaukee Early Care Administration
Public Assistance Collection Unit
Child Care Fraud