



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]

REHEARING
DECISION

CCB/144996

PRELIMINARY RECITALS

Pursuant to a petition filed November 03, 2012, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Oneida County Department of Social Services in regard to Child Care, a rehearing was held on January 22, 2013, at Rhinelander, Wisconsin.

The issue for determination is whether the county agency correctly discontinued the petitioner's child care case for the month of August, 2012, due to petitioner's failure to timely complete her child care review application for continued child care.

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: Amy Mayo, ES Supervisor
Oneida County Department of Social Services
Oneida Avenue
PO Box 400
Rhinelander, WI 54501

ADMINISTRATIVE LAW JUDGE:

Gary M. Wolkstein
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Oneida County who resides with her five children.
2. Petitioner received child care services for her five children. See Exhibit 4.

3. The county agency sent a July 18, 2012 Notice of Decision to the petitioner stating that her child care benefits would discontinue effective August 1, 2012, due to her failure to timely complete her required review. See Exhibit 3. The petitioner admitted receiving Exhibit 3.
4. On September 18, 2012, the petitioner re-applied for child care benefits.
5. The county agency sent an October 17, 2012 notice to the petitioner stating that her child care benefits were restored retroactive to September 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, §1.15.3. The recipient must report changes when they occur, but even if there are no changes. The recipient's case must be reviewed every six months and that review must be timely completed for continued child care benefits. Manual, §1.7.7.

In the instant case, the county agency established that petitioner failed to complete her child care review by August 1, 2012. During the hearing, petitioner admitted that she received the July 18, 2012 Notice of Decision stating that her that child care would discontinue effective August 1, 2012, due to her failure to timely complete her required review. See Exhibit 3. At that point, the petitioner was certainly aware that she must complete her review by August 1, 201 for continued child care benefits, but failed to do so.

The petitioner agreed that she re-applied for child care on September 18, 2012, and the county re-opened her child care benefits retroactive to September 1, 2012. The petitioner was unable to present any reliable testimony or evidence to refute the county agency's case. Accordingly, based upon the above, I conclude that the county agency correctly discontinued the petitioner's child care case for the month of August, 2012, due to petitioner's failure to timely complete her child care review application for child care.

CONCLUSIONS OF LAW

The county agency correctly discontinued the petitioner's child care case for the month of August, 2012, due to petitioner's failure to timely complete her child care review application for continued child care benefits.

THEREFORE, it is

ORDERED

The petition for review herein be and the same is hereby 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 18th day of February, 2013

\sGary M. Wolkstein
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 18, 2013.

Oneida County Department of Social Services
Child Care Benefits