



FH
[REDACTED]

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

In the Matter of

[REDACTED]

DECISION

CCB/145086

PRELIMINARY RECITALS

Pursuant to a petition filed November 06, 2012, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Kenosha County Human Service Department in regard to Child Care, a hearing was held on January 29, 2013, at Kenosha, Wisconsin.

The issue for determination is whether the Kenosha County Human Service Department (the agency) correctly denied Petitioner Child Care benefits, effective September 1, 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: Lauren Fox, Fair Hearing Coordinator and Karen Marquardt
Kenosha County Human Service Department
8600 Sheridan Road
Kenosha, WI 53143

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Kenosha County.
2. On September 4, 2012, Petitioner filed a Change Report via ACCESS, to report a new job with Home Helpers. (Exhibit 7)

3. On September 18, 2012, the agency sent Petitioner a Notice of Proof Needed, requesting verification of her employment and earnings. The verification was due September 27, 2012. (Exhibit 10)
4. On October 9, 2012, the agency sent Petitioner a Notice of Action and Proof Needed, requesting verification of her new job and wages. The verification was due October 18, 2012. (Exhibit 4)
5. On October 19, 2012, the agency sent Petitioner a notice indicating that her Child Care benefits were being denied, effective September 1, 2012, because she did not provide the requested verification. (Exhibit 8)
6. On a date uncertain, Petitioner gave her employer the Employer Verification of Earnings (EVFE) form that the agency sent with the September 18, 2012 Notice of Proof Needed. (Exhibit 11; Petitioner's testimony)
7. Petitioner's employer submitted the EVFE to the agency on October 23, 2012.
8. Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on November 6, 2012.

DISCUSSION

Per the Child Care Manual §1.7.1, the agency must verify the level of income and approved activity participation. The party applying for benefits has the primary responsibility for providing verification and resolving questionable information. *Child Care Manual §1.7.4*

Generally, the applicant has, "seven (7) business days from the date the verification request is made to submit the needed verification." *Id at §1.7.5* If there are extenuating circumstances that make the verification requirements unduly burdensome, the agency can extend the verification due date to 30 calendar days from the filing date. *Id.*

If the applicant is unable to produce the requested verification items, or requires assistance to do so, the agency must assist the applicant in obtaining the verification. To do this, the agency may need the applicant's signature on a written *Release of Information* form to obtain the information from a third party.

If the applicant has made a reasonable effort and cannot obtain the information, the application must not be denied based upon the information that could not be obtained. Instead, the agency must use the available information to process the case and then reassess the case when the requested information is received.

Child Care Manual §1.7.6

If the applicant is able to produce the information, but refuses or fails to do so, no eligibility shall exist.

If the applicant fails or refuses to provide verification, the Wisconsin Shares child care assistance application may be denied or the case may be closed. No eligibility shall exist when an individual has the power to produce required verification, but refuses or fails to do so.

Child Care Manual §1.7.7

Petitioner claimed that she timely gave her employer the EVFE and had no control over whether her employer completed the form and provided it to the agency in a timely manner. However, she was uncertain exactly when she provided the EVFE form to her employer for completion.

It should be noted that in her testimony, Petitioner stated that she did not recall getting the September Notice of Proof Needed, but was certain that she received the notice in October and timely gave the attached EVFE to her employer. However, the EVFE submitted by the employer came from Petitioner's September 2012 Notice of Proof needed. This inconsistency calls into question, the reliability of Petitioner's testimony.

As discussed above, the ultimate responsibility for providing verification falls on Petitioner, so it was her responsibility to make sure the employer was aware of the deadlines and abided by them, and if the employer refused, it was Petitioner's responsibility to immediately notify the agency of the issue.

In the case at hand, the agency did expand the time for Petitioner to provide verification of her employment and income from September 27, 2012 to October 18, 2012, but she still did not submit the information in a timely manner. There is no evidence in the record to support a finding that Petitioner's employer was unwilling to complete and submit the EVFE or was otherwise being uncooperative or obstructionist. Consequently, it is found that Petitioner was able to provide verification, but did not make a reasonable effort to obtain verification from her employer and subsequently, failed to provide the required information in a timely manner. Thus, per Child Care Manual §1.7.7, Petitioner's child care benefits were correctly terminated/denied effective September 1, 2012.

CONCLUSIONS OF LAW

The agency correctly denied Petitioner Child Care benefits effective September 1, 2012.

THEREFORE, it is ORDERED

That the petition 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 8th day of February, 2013.

\sMayumi M. Ishii
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.

Kenosha County Human Service Department
Child Care Benefits