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[REDACTED]

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

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In the Matter of

[REDACTED]

DECISION

CCB/145251

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**PRELIMINARY RECITALS**

Pursuant to a petition filed November 13, 2012, under Wis. Admin. Code, §HA 3.03(4), to review a decision by the Portage County Dept. of Human Services in regard to child care, a hearing was held on January 17, 2013, by telephone.

The issue for determination is the date of petitioner's child care application.

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]

Respondent:

Department of Children and Families  
201 East Washington Avenue  
Madison, Wisconsin 53703

By: Lori Yenter

Portage County Dept. of Human Services  
817 Whiting Avenue  
Stevens Point, WI 54481-5292

**ADMINISTRATIVE LAW JUDGE:**

Brian C. Schneider

Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Portage County.
2. Petitioner is the caretaker of two foster children. She started to take them to day care in September, 2012.
3. Petitioner applied for child care assistance on-line on Friday, September 28, 2012. The application was filed at 6:34 p.m.

4. The agency granted child care effective October 1, 2012, but denied for September because the application was filed after the end of the last business day of the month. Child care can be backdated to the first of the month of filing.

### 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. A caretaker is eligible for child care services if she needs the care to attend Wisconsin Works (W-2) approved school, to work, or to participate in W-2 activities. Wis. Stat., §49.155(1m)(a).

The Manual, at §1.3.1, provides that an application filing date is set when the agency receives a signed Request For Assistance (RFA), it receives a Wisconsin Works and Related Programs Registration, the date the application interview is conducted, or the ACCESS application date, whichever comes first. § 1.3.1 specifically provides: "Electronic applications submitted after 4:30 p.m. are recorded as received the next business day." §1.3.6 of the Manual provides that eligibility may be backdated only to the first of the month of the application filing date. The ACCESS application includes instructions as to the filing date; see page 10 of petitioner's application.

The policy is clear. In addition, there is nothing in the policy suggesting that that the Division of Hearings and Appeals has authority to make an exception to the policy. It is baffling to me that petitioner waited until the last moment of the month to file the application when the children started in the day care right after Labor Day, and the delay ends up being costly. Because the SHARES policy on the filing date requires petitioner's application to be considered filed on October 1, 2012, I cannot order eligibility for the month of September.

### CONCLUSIONS OF LAW

The county agency correctly started child care eligibility on October 1, 2012 because petitioner's application was filed after 4:30 p.m. on the last business day in September.

**THEREFORE, it is**

**ORDERED**

That 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 22nd day of January, 2013

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\sBrian C. Schneider  
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 22, 2013.

Portage County Department of Human Services  
Child Care Benefits