



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

CCB/145812

PRELIMINARY RECITALS

Pursuant to a petition filed December 08, 2012, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Milwaukee Enrollment Services in regard to Child Care, a hearing was held on February 6, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether Petitioner's appeal is timely.

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: Theresa Miles, DCF
Alma Lezama, HSPC Sr.
Milwaukee Enrollment Services
1220 W. Vliet St.
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On June 27, 2012, Milwaukee Enrollment Services (the agency) sent petitioner a notice indicating that she was eligible for Child Care benefits effective June 1, 2012. (Exhibit 5)

3. Petitioner was approved for three hours of child care per week, for the month of June 2012. (Exhibit 11, pg. 2) She was approved for four hours of child care per week from July 1, 2012 through September 1, 2012. (Exhibit 6 and 11)
4. Petitioner's child was in daycare, full time, for nine weeks, from June 11, 2012 through August 10, 2012. (See Exhibit 12)
5. On or about August 23, 2012, the Department of Children and Families made five, separate payments to Petitioner's child care provider in the amount of \$5.25, which covered four hours of child care per week, for the period of July 1, 2012 through July 29, 2012. (Exhibits 11 and 12)
6. On August 27, 2012, the agency sent Petitioner a notice indicating that her authorization for child care would be ending September 1, 2012. The notice further indicated that Petitioner was approved for four hours of child care per week, between July 1, 2012 and September 1, 2012. (Exhibit 6)
7. Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on December 8, 2012. (Exhibit 1)

DISCUSSION

Petitioner filed a request for fair hearing, because she did not realize that she had only been approved for four hours of child care per week and did not understand why her daycare expenses for June 10, 2012 through August 31, 2012, had not been paid in full. Unfortunately, Petitioner's appeal is untimely.

An appeal of a negative action by the Department of Children and Families, or its agents, concerning Child Care Benefits must be filed within 45 days of the notice or the effective date of the negative action, whichever is later. *See Wisconsin Stat. § 49.152(1); Wis. Admin. Code §HA 3.05(3)*. (A negative action can be the denial of an application or a denial of payment of Child Care Benefits.) Petitioner was made aware of the 45 day deadline when she received the August 27, 2012 notice.

In this case, the dates of action would be June 30, 2012, when the agency did not pay for the child care it did authorize for that month, August 31, 2012, when the agency did not pay for the child care it authorized for that month and September 1, 2012, the date Petitioner's child care authorization ended.

Petitioner filed her appeal on December 8, 2012 - 98 days after the September 1, 2012 date of action. Consequently, her appeal is untimely and no jurisdiction exists to consider the merits of her appeal.

It should be noted that Petitioner was extremely frustrated with the miscommunication that occurred with the agency and complained that had she known her child care authorization was so little, she might have made different choices with regard to child care. Regrettably, this is not the forum in which to address that issue.

It should also be noted that Ms. Miles indicated that the Department of Children and Families would have to investigate why some payments were missed over the summer of 2012. It was unclear whether Petitioner's child care provider had properly submitted requests for payment. Ms. Miles also indicated that the agency would be looking into Petitioner's authorization for June 2012, as she might have been entitled to four hours of child care per week, not three.

CONCLUSIONS OF LAW

There is no jurisdiction as the appeal is untimely.

THEREFORE, it is

ORDERED

That the Petition be 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 15th 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 15, 2013.

Milwaukee Enrollment Services
Child Care Benefits