



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

CCB/147094

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**PRELIMINARY RECITALS**

Pursuant to a petition filed February 4, 2013, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Milwaukee Enrollment Services in regard to Child Care (CC), a hearing was held on May 8, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly determined the number of authorized CC hours for the petitioner, based on available information.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

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

By: Katherine May, HSPC  
Milwaukee Enrollment Services  
1220 W Vliet St  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Nancy J. Gagnon (telephonically)  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. The petitioner is employed and has an ongoing CC case. Her case was due for submission of a Six Month Review Form in December 2012. The SMRF was filed with the Department on December 29, 2012. The petitioner subsequently provided the Department with employment

verification in the form of two paystubs -- December 20 (27.25 hours) and January 3 (26.75 hours). Based on those paystubs, the Department created CC authorizations for the petitioner for 27 hours per pay period (13.5 hours weekly), beginning January 1, 2013. See, Exhibit 1 – *Child Care Authorization Information* notice.

3. The petitioner was offered more work hours by her employer in February and March 2013, but did not work them because she lacked sufficient authorized CC hours. She did not advise the Department of the offer of more hours.
4. The petitioner worked more hours in April 2013. At hearing, she produced paystubs from April 11, 2013, showing 52 hours worked, and from April 25, 2013, showing 44 hours worked. This was the petitioner's first verification of changed hours since January 2013.
5. At hearing, the Department representative stipulated to an immediate re-determination of the number of authorized CC hours to be awarded to the petitioner.

### **DISCUSSION**

Wis. Stat § 49.155 authorizes the department to operate a child care subsidy program for Wisconsin Works (W-2) recipients and working parents. See also, Wis. Admin. Code chs. DWD 12 and 56. The department has a *Child Day Care Manual (Manual)* that provides the specific policies for the program. (viewable online at <http://dcf.wisconsin.gov/childcare/wishares/manual.htm> ). The *Manual*, Ch. 2, §2.2.0, states that a recipient must be engaged in one of eight enumerated activities in order to be authorized for childcare benefits. There is no dispute that the petitioner was engaged in the qualifying activity of unsubsidized employment at all times relevant here.

The petitioner reported and verified increased work hours at the May 8, 2013 hearing. The Department representative stipulated that she would promptly re-determine (increase) the petitioner's CC authorization, based on the April paystubs. Her re-determination will affect authorizations going forward.

### **CONCLUSIONS OF LAW**

1. The petitioner's CC authorization prior to Saturday, May 4, 2013, will not be redetermined as the petitioner did not report her increased work hours until May 8, 2013. See, policy at *Child Care Manual*, § 3.8.5.
2. The Department stipulated to a redetermination of the CC authorization, per the petitioner's May 8, 2013, report.

**THEREFORE, it is**

**ORDERED**

That the petition is remanded to the Department with instructions to redetermine the petitioner's CC authorization, based on April 2013 paystubs, effective May 5, 2013. This action shall be taken within 10 days, if it has not been done already. In all other respects, 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 Madison,  
Wisconsin, this 9th day of May, 2013

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\sNancy J. Gagnon  
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 May 9, 2013.

Milwaukee Enrollment Services  
Child Care Benefits