



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

CCB/147975

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**PRELIMINARY RECITALS**

Pursuant to a petition filed March 11, 2013, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Marathon County Department of Social Services ["County"] in regard to Child Care ["CC"], a Hearing was held on May 23, 2013, at Wausau, Wisconsin. At petitioner's request a Hearing scheduled for April 25, 2013 was rescheduled.

The issue for determination is whether it was correct to discontinue petitioner CC effective November 1, 2012.

There appeared at that time via telephone the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

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

By: Maikou Yang, ESS

Marathon County Department of Social Services  
400 E. Thomas Street  
Wausau, WI 54403

**ADMINISTRATIVE LAW JUDGE:**

Sean P. Maloney  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Marathon County.

2. In September 2012 petitioner submitted a Six-Month report Form [“SMRF”] to the County; on that SMRF he stated that he was moving on September 28, 2012 and would have a new address in [REDACTED], Wisconsin.
3. On October 2, 2012 petitioner telephoned the County and reported that he was not moving and that his address would not be changing to an address in [REDACTED], Wisconsin.
4. The County sent a letter to petitioner dated October 2, 2012 entitled *Notice of Action and Proof Needed*; that October 2<sup>nd</sup> letter requested verification of where petitioner was living; the verification was due October 10, 2012; the letter was sent to the [REDACTED], Wisconsin address and petitioner never received it.
5. The County sent a letter to petitioner dated October 11, 2012 entitled *Notice of Eligibility Child Care*; that October 11th notified petitioner that his CC was ending October 31, 2012 due to failure to provide verification; the letter was sent to the [REDACTED], Wisconsin address and petitioner never received it.

### DISCUSSION

No eligibility exists for W-2 CC when an individual has the power to produce required verification but refuses or fails to do so. Wis. Admin. Code § DCF 101.11(3) (February 2012); see also, Wis. Stat. § 49.155(1m)(d) (2011-12). The applicant or participant has 7 working days from the date the verification request is made to provide the needed verification. The participant must be informed in writing of the verification items required, including the due date. If the applicant is able to produce the information, but refuses or fails to do so, he or she is not eligible and the case must be denied or closed. *Wisconsin Works (W-2) Manual* [“W2 Manual”] 4.1.3.

The Wisconsin Shares child care assistance applicant has the primary responsibility for providing verification and resolving questionable information. Wisconsin Shares Child Care Assistance Manual [“CC Manual”] 1.7.3. The applicant must be informed in writing of the verification items that are needed along with a due date. CC Manual 1.7.4. The applicant has seven (7) business days from the date the verification request is made to submit the needed verification to the Wisconsin Works or County/Tribal Human services agency. CC Manual 1.7.5. 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. CC Manual 1.7.7.

In this case petitioner testified credibly that he telephoned the County on October 2, 2012 and reported that he was not moving and that his address would not be changing. The County confirms that there was a telephone call from petitioner on October 2, 2012 (although it has no record of him reporting that he was not moving). Based on this evidence it is concluded that petitioner reported to the County on October 2, 2012 that he was not moving. Thus, the County never informed petitioner in writing of the verification items that were needed (the October 2<sup>nd</sup> letter requesting verification was not sent to the correct address and petitioner never received it). Therefore, it was not correct to discontinue petitioner CC effective November 1, 2012.

**CONCLUSIONS OF LAW**

For the reasons discussed above, it was not correct to discontinue petitioner CC effective November 1, 2012.

**NOW, THEREFORE, it is**

**ORDERED**

That this matter be REMANDED to the County, that the County not discontinue petitioner's CC effective November 1, 2012, and that, within 10 days of the date of this *Decision*, the County issue all CC to petitioner for which he is otherwise eligible, and which have not already been issued to him, retroactive to November 1, 2012.

**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 3rd day of July, 2013

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\sSean P. Maloney  
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 July 3, 2013.

Marathon County Department of Social Services  
Child Care Benefits