



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

██████████ ██████████
██████████
████████████████████

DECISION

WWW/149203

PRELIMINARY RECITALS

Pursuant to Wis. Stat. §49.152(1), petitioner filed a request for a Wisconsin Works ["W-2"] fact finding review with ResCare Workforce W2 Services ["ResCare"], a W-2 agency, on April 17, 2013. A fact finding review was held and a fact finding decision was issued on April 30, 2013.

Petitioner timely appealed to the department from the fact finding decision on May 6, 2013. See Wis. Stat. §49.152(2)(b), (c). The fact finding file was received by the Division of Hearings and Appeals ["DHA"] on May 10, 2013.

The issue for determination is whether it was correct to deny petitioner a W-2 extension.

PARTIES IN INTEREST:

Petitioner:

██████████ ██████████
██████████
████████████████████

Wisconsin Department of Children and Families
201 East Washington Avenue, Second Floor
Madison WI 53703-2866

By: Renita Reynolds
Kenosha County Human Service Department
8600 Sheridan Road
Kenosha, WI 53143

FACT FINDER: Melissa Zaragoza

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ██████████) is a resident of Kenosha County.
2. Petitioner requested that ResCare grant her an extension to the W-2 60-month lifetime limit.

3. ResCare denied petitioner's request for an extension to the W-2 60-month lifetime limit.

DISCUSSION

Petitioner appeals because ResCare denied her an extension to the W-2 time limits.

There is a 60-month lifetime limit on the total amount of time a person can be in any W-2 Employment Position that provides a cash payment (the months need not be consecutive months). Wis. Stat. § 49.145(2)(n) (2010-12); Wis. Admin. Code § DCF 101.09(2)(n) (February 2012); *Wisconsin Works Manual* ["W-2 Manual"] 2.10.1 & 2.10.2. A W-2 agency may extend the 60-month time limit only when it is determined that *unusual circumstances* exist that warrant an extension of the participation period. Wis. Stat. § 49.145(2)(n)3. (2010-12); Wis. Admin. Code § DCF 101.09(2)(n) (February 2012); W-2 Manual 2.10.6.2.¹

In the context of a W-2 extension request, *unusual circumstances* means any of the following:

1. A W-2 participant is unable to work because of personal disability or incapacitation, or is needed as determined by the agency to remain at home to care for a member of the W-2 group whose incapacity is so severe that without in-home care provided by the W-2 participant, the incapacitated W-2 group member's health and well-being would be significantly affected.

2. A W-2 participant has significant limitations to employment such as any of the following:

a. Low achievement ability, learning disability or emotional problems of such severity that they prevent the individual from obtaining or retaining unsubsidized employment, but are not sufficient to meet the criteria for eligibility for Supplemental Security Income ["SSI" a.k.a Title 16"] or Social Security Disability Insurance ["SSDI" a.k.a Title 2];

b. Family problems of such severity that they prevent the W-2 participant from obtaining or retaining unsubsidized employment.

3. The W-2 participant has made all appropriate efforts to find work and is unable to find employment because local labor market conditions preclude a reasonable job opportunity. In this subdivision, *reasonable job opportunity* means a job that pays minimum wage, and conforms to all applicable federal and state laws.

Wis. Admin. Code § DCF 101.09(2)(n) (February 2012); W-2 Manual 2.10.6.2.

The evidence in the record of this matter is that petitioner does not meet any of the above criteria for an extension to the W-2 60-month lifetime limit. Therefore, ResCare's denial must be sustained.

Petitioner does not claim that she is unable to work because of personal disability or incapacitation (although she does state that she gets sick and dizzy if she sits in front of a computer for too long). She does not claim that she is needed at home to care for a member of her W-2 group. She does not claim to have significant limitations to employment. She does not claim that local labor market conditions preclude a reasonable job opportunity.

¹ In addition to the 60-month lifetime limit, participation in any one W-2 subsidized employment position (Trial Job, Community Service Job ["CSJ"] and Transitional Placement ["W2-T"]) is limited to 24 cumulative months (the months need not be consecutive months). Under certain circumstances extensions may be granted to this 24-month time limit. Wis. Stat. §§ 49.147(3)(c), (4)(b) & (5)(b)2. (2011-12); Wis. Admin. Code §§ DCF 101.16(2)(e), (3)(e) & (4)(c) (February 2012); W-2 Manual 2.10.1 & 2.10.3. & 2.10.6.

CONCLUSIONS OF LAW

For the reasons explained above, it was correct to deny petitioner a W-2 extension.

NOW, THEREFORE, it is

ORDERED

That the petition for review herein be and the same is hereby DISMISSED.

REQUEST FOR A NEW HEARING

This is a final fair hearing decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a new hearing. You may also ask for a new hearing if you have found new evidence which would change the decision. To ask for a new hearing, 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 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.

Your request for a new hearing must be received no later than 20 days after the date of this decision. Late requests cannot be granted. The process for asking for a new hearing is in Wisconsin Statutes § 227.49. A copy of the statutes can 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 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. Appeals must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is 201 E. Washington Avenue, Second Floor, Madison, WI 53703-2866.

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 Wisconsin Statutes, §§ 227.52 and 227.53.

Given under my hand at the city of
Madison, Wisconsin, this 16th day of
May, 2013

s/s Sean 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 May 16, 2013.

Kenosha County Human Service Department
Wisconsin Works (W2)