



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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

CCB/149978

PRELIMINARY RECITALS

Pursuant to a petition filed June 13, 2013, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Dane County Department of Human Services in regard to Child Care, a hearing was held on July 22, 2013, at Madison, Wisconsin.

The issue for determination is whether the Department erred in terminating petitioner's Child Care (CC) Program benefits effective May 1, 2013.

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: Rommel Tijerino

Dane County Department of Human Services
1819 Aberg Avenue
Suite D
Madison, WI 53704-6343

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Dane County.
2. Petitioner was enrolled in the CC Program.

3. Petitioner underwent a periodic program eligibility review in April 2013. The interview was conducted on the phone on April 23 and data input by the agency worker.
4. The Department mailed a signature page to petitioner on April 24, 2013. The page was due back with petitioner's signature by May 2, 2013. A notice was mailed with the signature page indicating this deadline.
5. The Department did not receive the signature page.
6. The Department closed petitioner's enrollment.
7. Petitioner appealed.

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, W-2 Manual, 15.2.0. The department has a Child Care Manual (Manual) that provides the specific policies for the program. The Manual may be viewed on line at <http://dcf.wisconsin.gov/childcare/wishares/manual.htm>.

The child care subsidy program's authorizing statute contains financial and nonfinancial eligibility criteria. If applicant parents do not meet the nonfinancial and financial eligibility criteria, then benefits cannot be granted. The CC Manual explains that the signature page is required for eligibility at Section 1.3.2.

Petitioner stated that she received the notice indicating that the signature page was required. She did not dispute that it was required. Instead, petitioner argued that she had faxed in the required signature page and thought everything was fine until her provider informed her that benefits had stopped.

Petitioner did not keep a confirmation page or any other proof that she has sent in the signature page. Petitioner explained that she did not have the signature page any longer and likely threw it in the trash. It is commonplace for people to keep fax confirmation pages for critical documents. Similarly, may choose to mail hard copies if important documents with a return-receipt requested from the Postal Service. I fully understand that the agency is not infallible and could have lost a faxed item. But, without some documentation or other proof to support that the required document was sent before the deadline, I cannot so find.

CONCLUSIONS OF LAW

The Department did not err in terminating petitioner's CC effective May 1, 2013.

THEREFORE, it is

ORDERED

That this matter 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 18th day of September, 2013

\sJohn P. Tedesco
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 September 18, 2013.

Dane County Department of Human Services
Child Care Benefits