



FH  
[REDACTED]

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

---

In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

CCB/150003

---

**PRELIMINARY RECITALS**

Pursuant to a petition filed June 13, 2013, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Dodge County Department of Human Services in regard to Child Care, a telephone hearing was held on August 12, 2013.

The issue for determination is whether the respondent correctly discontinued the petitioner's child care benefits due to the residency of petitioner's daughter, who is the mother of the child for whom benefits are sought, in petitioner's home.

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: Amarylis Rodriguez

Dodge County Department of Human Services  
143 E. Center Street  
Juneau, WI 53039-1371

**ADMINISTRATIVE LAW JUDGE:**

Peter McCombs  
Division of Hearings and Appeals

**FINDINGS OF FACT**

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

2. Petitioner is the legal guardian of petitioner's grandchild, LZ. She has received Kinship Care benefits and Child Care benefits regarding LZ.
3. At a renewal interview conducted on March 26, 2013, petitioner reported that her daughter (LZ's mother) was temporarily living in the household.
4. Notice dated April 29, 2013, informed petitioner that the Child Care Authorization for LZ was ending on May 4, 2013.

### 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 *Wisconsin Shares Child Care Assistance 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.

In the instant matter, the agency ended petitioner's authorization because the mother of LZ was residing with petitioner. As noted above, the *Manual* sets out the Department's policies for operating the program. Specific to the instant matter, the *Manual* directs workers to:

Exclude relatives from the Assistance Group that live in the home if the parent is also living in the home. If a relative has been receiving child care assistance while the parent was out of the home and the parent returns to the home, the relative's eligibility ends because the parent is back in the home. The returning parent may apply for child care assistance.

*Manual* § 1.3.11.

At hearing the petitioner conceded that the mother of LV is still in petitioner's home. However, she testified that LV's mother takes no responsibility for LV. Petitioner works full time, and has no family members locally who can assist with child care.

The petitioner has in effect argued that the program standard is unfair and that the administrative law judge should grant her relief from the program requirements. While I certainly empathize with her situation, it is the long-standing policy of the Division of Hearings & Appeals, Work & Family Services Unit, that the Department's assigned administrative law judges do not possess equitable powers. See, Wisconsin Socialist Workers 1976 Campaign Committee v. McCann, 433 F.Supp. 540, 545 (E.D. Wis.1977). This office must limit its review to the law as set forth in statutes, federal regulations, and administrative code provisions. Under law, she is not eligible for Child Care benefits; no exception applies, and I am without any equitable powers to direct any remedy beyond the remedies available under law.

### CONCLUSIONS OF LAW

The respondent correctly discontinued petitioner's Child Care benefits for petitioner's granddaughter, LZ, due to the fact that LZ's mother was living with petitioner and LZ.

**THEREFORE, it is**

**ORDERED**

That the petitioner's appeal 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 3rd day of October, 2013

---

\sPeter McCombs  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

Wayne J. Wiedenhoef, Acting Administrator  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on October 3, 2013.

Dodge County Department of Human Services  
Child Care Benefits