



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

CCB/152669

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**PRELIMINARY RECITALS**

Pursuant to a petition filed October 9, 2013, under Wis. Admin. Code, §HA 3.03(4), to review a decision by Milwaukee Enrollment Services in regard to child care services, a hearing was held on November 6, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly determined the eligible child care hours for a self-employed parent.

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: Theresa Miles  
Milwaukee Enrollment Services  
1220 W. Vliet St.  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Brian C. Schneider  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner resides with her boyfriend and their son who will be two later this month. The agency reviewed child care eligibility in August, 2013, and it initially denied eligibility effective

September 1, 2013 because of income. Petitioner appealed but the appeal was withdrawn when the agency changed the income amounts.

3. By a notice dated September 16, 2013, the agency informed petitioner that she was eligible for child care but for only four hours per week; there would be no Wisconsin Shares payments because a four-hour payment would be less than petitioner's co-pay. Petitioner then filed this appeal.
4. Petitioner's boyfriend is self-employed. In 2012 net income from the business, plus depreciation, was \$1,496.88, which averages out to \$124.74 per month. The business has been operating since 2010.

### **DISCUSSION**

A parent is eligible for child care services if she needs the care to attend Wisconsin Works (W-2) approved school, to work, or to participate in W-2 activities. Wis. Stat., §49.155(1m)(a); W-2 Manual, §15.2.0. If both parents are in the household both must be working or attending W-2 activities. Wis. Admin. Code, §DCF 101.26(1).

The Wisconsin Shares Child Care Assistance Manual (hereafter "the Manual") provides as follows concerning self-employed applicants/recipients at §3.6.1.2:

During the first 6 months that a parent is engaged in a new self-employment business, the agency may authorize care for the hours the parent is engaged in self-employment work....

Authorizations for self-employment are only allowed to the extent that they support employment that produces monthly-adjusted self-employment income equivalent to at least the state minimum wage.

The Department has chosen to limit child care authorizations for self-employed parents to the hours obtained by dividing net self-employment income by the minimum wage. It allows full-time child care for up to six months after the person starts a new self-employment business, no doubt to allow the business time to grow to determine whether it can be capable of bringing in sufficient net income.

The reason for the limitation is to avoid subsidizing a business that is not self-supporting. In this case petitioner's boyfriend's business income averages out to just four hours per week at minimum wage. Because the county followed Department policy correctly I affirm the determination.

### **CONCLUSIONS OF LAW**

Petitioner is not eligible for Wisconsin Shares payments because her boyfriend's self-employment business has income that allows only a four-hour per week authorization, which amounts to less than the household's Shares co-pay.

**THEREFORE, it is**

**ORDERED**

That the petition for review herein be and the same is hereby 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 11th day of November, 2013

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\sBrian C. Schneider  
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 November 11, 2013.

Milwaukee Enrollment Services  
Child Care Benefits