



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

CCO/153134

PRELIMINARY RECITALS

Pursuant to a petition filed October 25, 2013, under Wis. Admin. Code § HA 3.03, to review a decision by the Waukesha County Health and Human Services in regard to Child Care, a hearing was held on November 19, 2013, at Waukesha, Wisconsin.

The issue for determination is whether Waukesha County Health and Human Services (the agency) correctly determined Petitioner was over-issued child care benefits.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: Lynnae Boyenga, Fraud Investigator
Waukesha County Health and Human Services
514 Riverview Avenue
Waukesha, WI 53188

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ) is a resident of Waukesha County.
2. Petitioner filed an application for Child Care benefits on July 19, 2013, in which she excluded the father of her children. (Exhibit 2)
3. On September 30, 2013, the agency sent Petitioner a notice indicating that her eligibility for child care benefits would be ending October 31, 2013. (Exhibit 6)

4. On the agency sent Petitioner a Child Care Overpayment notice, case number [REDACTED], indicating that she was overpaid FoodShare benefits in the amount of \$1164.00 for the period of August 1, 2013 and September 30, 2013. (Exhibit 9)
5. Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on October 25, 2013. (Exhibit 1)
6. Petitioner shares a residence with her two children, with [REDACTED] - the father of her children and with [REDACTED]'s parents. Petitioner has shared a residence with the father of her children since 2011. (Testimony of Petitioner)
7. Petitioner and [REDACTED] each pay \$300 in rent to [REDACTED]'s parents. Petitioner is responsible for her share of the utilities. (Testimony of Petitioner)
8. Petitioner earns \$1,005.21 per month and [REDACTED] earns \$3,015 per month. (Exhibit 7)

DISCUSSION

Petitioner does not dispute the fact that she received \$1,164 in childcare benefits. However, Petitioner contends that the agency erred by including the father of her children in her assistance group.

An overpayment of childcare benefits occurs when the agency pays benefits in an amount greater than what the recipient was eligible to receive. *Wis. Admin. Code DCF 101.23(1)(g)*

Liability for overpayments, "shall extend to any parent, nonmarital coparent, or stepparent whose family receives benefits under s. 49.148, 49.155, 49.157, or 49.19, Stats., during the period that he or she is an adult member of the same household...Liability for repayment of an overpayment shall be joint and several. *Wis. Admin. Code DCF 101.23(3)(a) and (b)*.

In determining eligibility for child care assistance, income of all assistance group members, except for minors and dependent 18 year olds, must be counted. *CCM §1.6.4*

"Assistance Groups are defined as an individual who is a custodial parent or placement parent, and their dependent children, and all dependent children with respect to whom the individual's dependent child is a custodial parent...The Assistance Group also includes any nonmarital coparent or any spouse of the individual who resides in the same household as the individual, and any dependent children with respect to whom the spouse or nonmarital coparent is a custodial parent." *Wisconsin Shares Child Care Assistance Manual (CCM) §1.3.8*

Based upon the foregoing, it is found that Petitioner should have included the father of her children in her household at the time she applied for benefits.

In order for initial applicants to be eligible for Child Care benefits, household income must be below 185% of the Federal Poverty Limit (FPL). *Wisconsin Child Care Assistance Manual §1.6.2* For on-going eligibility, income cannot exceed 200% FPL. *Wisconsin Child Care Assistance Manual §1.6.3* Income is evaluated on the basis of gross monthly income. *Id. at §1.6.4*

For a family of four, 185% of FPL is \$3631 per month and 200% of FPL is \$3926. See www.familiesusa.org or obamacarefacts.com It is undisputed that Petitioner's household income is as follows:

\$3,015.00 per month from [REDACTED]
+\$1005.21 per month from Petitioner

\$4020.21 Total Household Income

\$4020.21 is over the \$3631 / 185% FPL initial eligibility limit. Consequently, the agency correctly determined that Petitioner was not eligible for benefits at the time she applied and that she was overpaid child care benefits.

CONCLUSIONS OF LAW

Waukesha County Health and Human Services (the agency) correctly determined Petitioner was over-issued child care benefits.

THEREFORE, it is

ORDERED

That the petition 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 Milwaukee,
Wisconsin, this 25th day of November, 2013.

\sMayumi M. Ishii
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 25, 2013.

Waukesha County Health and Human Services
Public Assistance Collection Unit
Child Care Fraud