



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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

CCB/152530

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**PRELIMINARY RECITALS**

Pursuant to a petition filed September 30, 2013, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Wood County Human Services - WI Rapids in regard to Child Care, a telephone hearing was held on December 02, 2013.

The issue for determination is whether respondent correctly commenced petitioner's Child Care benefits in September, 2013.

There appeared at that time the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

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

By: Valerie Patterson

Wood County Human Services - WI Rapids  
320 West Grand Avenue  
PO Box 8095  
Wisconsin Rapids, WI 54495-8095

**ADMINISTRATIVE LAW JUDGE:**

Peter McCombs  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Wood County.
2. Petitioner applied for Child Care benefits in August of 2013. That application expired after the respondent was unable to reach petitioner to conduct a phone interview.

3. At the end of August, 2013, petitioner attempted to return a phone call from the respondent's representative, but was informed that the representative was on vacation. Petitioner was instructed to call again after the representative returned from her vacation.
4. Pursuant to respondent's instruction, petitioner applied for Child Care benefits anew in September, 2013. That application was approved, and petitioner was eligible for Child Care benefits effective September 1, 2013.

### **DISCUSSION**

Wis. Stat § 49.155 authorizes the respondent 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 respondent has a *Child Day 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 (CC) authorizing statute contains financial and nonfinancial eligibility criteria. If applicant parents do not meet the nonfinancial and financial eligibility criteria, then CC cannot be granted.

The county agency declined to open the petitioner's CC case before September 1, 2013, because CC eligibility can only go back to the first of month, in the month in which the application is filed or the application interview is conducted. The pertinent *Manual* language reads as follows:

#### **1.3.1 Request for Assistance (RFA)**

The Filing Date is set when either the agency receives a signed Request For Assistance (RFA) generated by Client Registration in CWW, a DWSP-14880 (Wisconsin Works and Related Programs Registration), or the date the application interview is conducted; whichever comes first.

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#### **1.3.6 Eligibility Determination**

Once the verification has been determined to be complete, the agency has seven (7) business days to determine eligibility. Eligibility may be backdated only to the first of the month of the application filing date, unless the applicant requested an intake appointment and was given an appointment for the following month; in this situation eligibility may be backdated to the first of the month that the agency received a signed CAF for child care assistance.

*Id.*, Ch. 1, §§ 1.3.1, 1.3.6. There are no administrative code provisions in place to conflict with this eligibility date policy.

However, the issue here is really whether the August application was properly expired by the respondent. The petitioner testified that she attempt to reach the respondent to set up her initial intake appointment at the end of August. The respondent's representative was on vacation at that time. When petitioner finally reached the respondent's representative, she was informed that she need to reapply, which she did. The respondent provided no exhibits at hearing; it relied solely upon the testimony of its representative. Petitioner argued quite credibly that she applied in August, and but for agency error in advising her to wait to talk to the respondent's representative until after the representative returned from vacation, she

would have been eligible for CC benefits effective August 1, 2013. Based on the record before me, I agree.

**CONCLUSIONS OF LAW**

The respondent incorrectly commenced petitioner's Child Care benefits in September, 2013, as opposed to August, 2013.

**THEREFORE, it is ORDERED**

That this matter shall be remanded to the respondent to commence the petitioner's eligibility for CC benefits as of the first of the month of her initial application, which was August, 2013. All actions required by this Order shall be completed within 10 days following issuance of this decision.

**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 27th day of January, 2014

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\sPeter McCombs  
Administrative Law Judge  
Division of Hearings and Appeals



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

Brian Hayes, 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 January 27, 2014.

Wood County Human Services - WI Rapids  
Child Care Benefits