



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

CCB/152642

PRELIMINARY RECITALS

Pursuant to a petition filed October 04, 2013, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Racine County Department of Human Services in regard to Child Care, a hearing was held on November 04, 2013, at Racine, Wisconsin.

The issue for determination is whether the agency correctly denied Petitioner's application for child care benefits because household income was in excess of program limits

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: Rhonda Kramer

Racine County Department of Human Services
1717 Taylor Ave
Racine, WI 53403-2497

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [redacted]) is a resident of Racine County.
2. Petitioner applied for child care eligibility in September 2013. That application was denied as the agency determined that the household had income in excess of 185% of the Federal Poverty Limit (FPL). His household size is 2.

3. 185% of the FPL for a household of 2 is \$2391.00. *Operations Memo 13-04, issued February 1, 2013.*
4. Petitioner reported full time employment at \$15.50 per hour on her child care application. Her paystubs indicate biweekly paychecks. The Wisconsin Shares Child Care program requires the use of the multiplier to convert biweekly or bimonthly paychecks to a monthly amount. *See Wisconsin Shares Child Care Program Manual, §1.6.2.* her application income would then be \$2666.00 (15.5 x40 x4.3).
5. Petitioner submitted two paycheck stubs for the application process. One showed gross income of \$1139.54 and the other \$1234.48. From this the agency concluded that Petitioner's income is \$2541.04 per month.

DISCUSSION

There is an income test for child care eligibility, both at application and for ongoing eligibility.

Financial eligibility for non-court ordered kinship care relatives is based upon their gross income being not more than 185% federal poverty level (FPL) at the time of application, and no more than 200% FPL for two consecutive months for on-going cases.

Wisconsin Shares Child Care Assistance Manual, §1.14.1; also see §1.6.3.

185% of the Federal Poverty Level (FPL) for a group of four was \$2391.00 during the time relevant here. *Again, see Operations Memo 13-04, issued February 1, 2013. (Petitioner should note that it may increase in February 2014)*

The child care program does give detailed guidance, with an example, as to how to compute income:

Calculate income prospectively by making the best estimate of monthly income based upon the information available. Multiply the hourly rate of payment by the number of hours worked per week.

$$\text{\$7.50 X 40}=\text{\$300 per week.}$$

Multiply the amount per week by 4.3 weeks to arrive an average monthly income.

$$\text{\$300 X 4.3 weeks}=\text{\$1,290 per month}$$

Convert income received less than a month to a monthly amount.

$$\text{\$700 per month tenant payment}=\text{\$700/month}$$

Wisconsin Shares Child Care Assistance Manual, §1.6.6.

Petitioner's income is over the child care gross income limit and I must conclude that the county agency correctly denied child care benefits due to income.

Petitioner argues that she works hard and goes to school in an effort to provide a good life for herself and her child and this is not fair. Nonetheless, the law and policy sets the income limits and describes how income is counted. The Division of Hearings and Appeals does not possess equitable powers. *See, e.g., Wisconsin Socialist Workers 1976 Campaign Committee v. McCann, 433 F. Supp. 540, 545 (E.D. Wis.1977).* The Division of Hearings and Appeals must limit its review to the law as set forth in statutes, federal regulations, administrative code provisions and program policy. Accordingly, the Division of Hearings and Appeals does not have authority under law to perform "equity" in the manner sought.

CONCLUSIONS OF LAW

That the agency correctly denied Petitioner's application for child care because her household income was in excess of program income limits.

THEREFORE, it is

ORDERED

That this 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 Milwaukee,
Wisconsin, this 23rd day of January, 2014

\sDavid D. Fleming
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
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on January 23, 2014.

Racine County Department of Human Services
Child Care Benefits