



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

CCB/152917

PRELIMINARY RECITALS

Pursuant to a petition filed October 16, 2013, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Rock County Department of Social Services in regard to Child Care, a telephonic hearing was held on November 27, 2013, at Janesville, Wisconsin.

The issue for determination is whether the county agency correctly denied the petitioner's September, 2013 child care application due to petitioner not being employed nor participating in approved W-2 activities.

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: Laura Middleton, ESS
Rock County Department of Social Services
1900 Center Avenue
PO Box 1649
Janesville, WI 53546

ADMINISTRATIVE LAW JUDGE:

Gary M. Wolkstein
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [redacted]) is a resident of Rock County who resides with her husband, [redacted], and their five children.
2. On or about September 23, 2013, petitioner applied for child care benefits for her children.

3. The petitioner's husband is employed at [REDACTED] and [REDACTED].
4. The petitioner is a full-time nursing student at the [REDACTED]. That nursing program is not approved by the W-2 program for child care benefits.
5. The petitioner is not employed at least 5 hours per week and 20 hour per month, and is not participating in any approved W-2 activities.
6. The county agency sent an October 3, 2013 Notice of Decision to the petitioner stating that her September 23, 2013 application for child care benefits was denied due to her not being employed nor participating in approved W-2 activities.

DISCUSSION

WI Stat § 49.155 authorizes the Department to operate a child care subsidy for Wisconsin Works (W-2) recipients and working parents. Such funds are administered by the Department of Workforce Development, and its agents. **A parent is eligible for CCB if s/he needs the care to attend W-2-approved school, to work, or to participate in W-2 activities.** (Emphasis added) WI Stat § 49.155(1m)(a) ; W-2 Manual, §15.2.0. The W-2 agency determines eligibility for CCB for a six month period. See Child Day Care Manual, §3.1.0. Once a participant is found eligible, a W-2 agency shall periodically review an individual's eligibility. See Wis. Adm. Code §DWD 12.13; see also, DWD Operations Memo, #05-29.

In order to be eligible for W-2 Child Care (CC) a person must be participating in an approved activity. *Wisconsin Shares Child Care Assistance Manual* 1.4.8. **If both parents are in the household both must be working or attending W-2 activities.** Wis. Adm. Code, §DCF 101.26(1). The Department's Child Day Care Manual provides the specific policies for the program.

During the November 27, 2013 hearing, petitioner argued that her nursing program does not permit employment because it is an intensive Bachelor of Science in Nursing program. The petitioner's argument is understandable, and the petitioner is clearly attempting to better her future employment circumstances for herself and her family. However, the specific provisions of the Child Day Care Manual require that a recipient work at least 5 hours per week and 20 hours per month continued through the semester for child care eligibility. Child Day Care Manual, §1.5.7, Technical College or Course of Study Producing Employment" and §1.5.0.

In this case, the county agency presented an organized case to establish that it correctly denied petitioner's September, 2013 child care application because petitioner was not employed nor participating in any W-2 approved activities. During the November 27, 2013 hearing, petitioner was unable to establish any exception by which she would be considered eligible for child care benefits despite not being employed nor participating in any W-2 approved activities. Neither petitioner nor her husband were able to refute the county's case that it correctly denied her child care application. Accordingly, based upon the above, I must conclude that the county agency correctly denied the petitioner's September, 2013 child care application due to petitioner not being employed nor participating in approved W-2 activities.

CONCLUSIONS OF LAW

The county agency correctly denied the petitioner's September, 2013 child care application due to petitioner not being employed nor participating in approved W-2 activities.

THEREFORE, it is

ORDERED

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 5th day of February, 2014

\sGary M. Wolkstein
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 February 5, 2014.

Rock County Department of Social Services
Child Care Benefits