



FH
[REDACTED]

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

In the Matter of:

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

CCO/154651

PRELIMINARY RECITALS

Pursuant to a petition filed January 07, 2014, under Wis. Admin. Code § HA 3.03, to review a decision by the Marathon County Department of Social Services ["County"] in regard to Child Care ["CC"], a Hearing was held via telephone on March 19, 2014.

The issue for determination is whether the following Claim may be established against petitioner for overpayments of Wisconsin Works ["W-2"] CC: Claim # [REDACTED]; August 18, 2013 to October 19, 2013; \$996.99.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Jean Baranowski, Accounting Assistant I
Marathon County Department of Social Services
400 E. Thomas Street
Wausau, WI 54403

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Marathon County.
2. The County established the following Claim against petitioner for overpayments of W-2 CC: Claim # [REDACTED]; August 18, 2013 to October 19, 2013; \$996.99.

3. During the time period of the overpayments detailed in *Findings of Fact #2*, above, petitioner was authorized for 35 hours of CC so she could complete W-2 activities.
4. During the time period of the overpayments detailed in *Findings of Fact #2*, above, petitioner did not use the entire 35 hours of CC per week because her child was watched for part of the time by the child's father; this was not discovered by the County until October 2013 at which time petitioner's CC was reduced to 20 hours per week.

DISCUSSION

The County or agency must determine whether an overpayment of W-2 CC has been made and, if so, the amount of the overpayment. Wis. Stat. § 49.195(3) (2011-12); See also, Wis. Admin. Code §§ DCF 101.23 (February 2012) & 201.04(5)(a) (July 2013); *Wisconsin Shares Child Care Assistance Manual* (October 2013) ["CC Manual"], 2.1.5.1. Even if the overpayment is partly or wholly due to agency error it must still be repaid. Wis. Admin. Code § DCF 101.23(3) (February 2012); and, Wis. Admin. Code § DCF 201.04(5)(a)1. (July 2013); CC Manual 2.1.5.1 & 2.5.1.2. A W-2 CC overpayment is any W-2 CC benefit or payment received in an amount greater than the amount the individual was eligible to receive under applicable statutes and rules, regardless of the reason for the overpayment {a W-2 CC overpayment may be the result of client error, administrative error, or an Intentional Program Violation ["IPV"]}. Wis. Admin. Code § DCF 101.23(1)(g) (February 2012); Wis. Admin. Code § DCF 201.04(5)(a)1. (July 2013); CC Manual 2.1.5.1. & 2.1.5.2.

Local agency workers must change the number of CC hours for an authorization when there is a change in the number of hours the child must be in care in order for the parent to remain in their approved activity. This could be the result of a change in either the parent's approved activity schedule, a change in the child's schedule due to school, use of informal care, or other reasons. CC Manual 3.8.3. (12/10/2013).

An overpayment must be recovered from the client when the client receives benefits for which they were not eligible, such as:

- A. A change in income, the need for child care, or household composition was not reported within 10 days of the change and the change would have resulted in a lesser benefit received.; or,
- B. The worker did not timely act upon reported information or entered incorrect information into the CARES system that resulted in an eligibility related overpayment.

CC Manual 2.1.5.1. (October 2013).

Petitioner argues that she contacted the County and informed the County that her child was being watched for part of the time by the child's father. However, even if this is correct there is still an overpayment that must be repaid by petitioner. As detailed above, an overpayment must be recovered from the client when the client receives benefits for which they were not eligible because the worker did not timely act upon reported information, or entered incorrect information into the system, that resulted in an eligibility related overpayment. A W-2 CC overpayment is any W-2 CC benefit or payment received in an amount greater than the amount the individual was eligible to receive under applicable statutes and rules, regardless of the reason for the overpayment {a W-2 CC overpayment may be the result of client error, administrative error, or an Intentional Program Violation ["IPV"]}.

CONCLUSIONS OF LAW

For the reasons discussed above, the following Claim may be established against petitioner for overpayments of W-2 CC: Claim # [REDACTED]; August 18, 2013 to October 19, 2013; \$996.99.

NOW, THEREFORE, it is

ORDERED

that the petition for review herein be and the same is hereby DISMISSED.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or 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 filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Children and Families, 201 East Washington Avenue, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 9th day of April, 2014

\sSean P. Maloney
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 April 9, 2014.

Marathon County Department of Social Services
Public Assistance Collection Unit
Child Care Fraud