



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

CCB/154797

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**PRELIMINARY RECITALS**

Pursuant to a petition filed January 13, 2014, under Wis. Admin. Code, §HA 3.03(4), to review a decision by the Sauk County Dept. of Human Services in regard to child care assistance, a hearing was held on April 15, 2014, by telephone. A hearing set for March 20, 2014 was rescheduled at the petitioner's request.

The issue for determination is whether the county correctly counted petitioner's income in determining child care eligibility for one of two children in her care.

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

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

By: Kay Kippley  
Sauk County Dept. of Human Services  
P.O. Box 29  
Baraboo, WI 53913

**ADMINISTRATIVE LAW JUDGE:**

Brian C. Schneider  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Sauk County.
2. Three-plus years ago petitioner obtained guardianship of two nieces. She receives Kinship Care for one, but the other is ineligible for Kinship Care because she receives Supplemental Security Income (SSI). Petitioner received Wisconsin Shares child care assistance for the girls' attendance at a day care center.

3. A child care review occurred in November, 2013. The worker questioned whether the care was provided by a court order; a court order is needed for child care eligibility to be based upon the natural parents' income rather than the caretakers' income. The county then denied child care for both children because the caretakers' household income was over the program limits.
4. Petitioner appealed the discontinuance. The county worker then determined that one of the girls was eligible for child care because she was placed by a guardianship and received Kinship Care. However, the denial for the SSI recipient child remained in effect because she is neither a foster child nor a Kinship Care recipient.

### **DISCUSSION**

A caretaker is eligible for child care services if she needs the care to attend Wisconsin Works (W-2) approved school, to work, or to participate in W-2 activities. Wis. Stat., §49.155(1m)(a); W-2 Manual, §15.2.0. Generally the income of the caretaker is used to determine if the household is eligible for child care services. Wisconsin Shares Child Care Assistance Manual, Chapter 1, §1.6.2. Child care policy provides special treatment for certain caretakers, however:

If the applicant is caring for a child (ren) as:

- A foster parent, or
- A kinship care relative who is receiving kinship care assistance or is on a waiting list to receive kinship care assistance and has a court order for the child's placement, or
- A subsidized guardian or interim caretaker,

The income limit is based upon the child (ren)'s natural or adoptive family income being no more than 200% FPL at the time of the child's placement.

Manual, §1.6.2.1. A child receiving SSI is ineligible for Kinship Care. Wis. Stat., §48.57(3m)(a)6 and (3n)(a)5r. The county therefore denied child care eligibility for the SSI-recipient child because petitioner's household income had to be used to determine eligibility, not the natural parents' income.

I conclude that the county was correct at this time. Petitioner is not a foster parent, kinship care relative, or subsidized guardian, and thus the special income treatment is unavailable. Petitioner argued that she was told over three years ago that she would be eligible for child care and has been eligible. However, it is evident that the agency erred by ever granting child care for that child. That error does not trigger limitless eligibility.

### **CONCLUSIONS OF LAW**

The county correctly determined that the caretakers' income must be counted in determining eligibility for child care assistance for petitioner's SSI-recipient niece because the placement is not one of the exceptions that excludes the caretakers' income.

**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 21st day of April, 2014

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\sBrian C. Schneider  
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 21, 2014.

Sauk County Department of Human Services  
Child Care Benefits