



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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

CCB/155262

PRELIMINARY RECITALS

Pursuant to a petition filed February 05, 2014, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Milwaukee Enrollment Services in regard to Child Care, a hearing was held on March 05, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether respondent correctly determined petitioner’s Child Care co-pay responsibility.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Jose Silvestre
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Peter McCombs (telephonically)
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On November 22, 2013, petitioner received a notice from the respondent verifying her Child Care eligibility, identifying her reported monthly income, and directing her to pursue authorization to approve payments to her provider. Exhibit 6.

3. At the time in question here, the petitioner's approved activity was "unsubsidized employment."
4. On November 25, 2013, petitioner received a Child Care Authorization Information notice, which specified the weekly state authorized payment amount for [REDACTED] LLC, petitioner's co-pay, and the provider's price. This notice indicated that an appeal of this information must have been filed by January 9, 2014. Exhibit 8.
5. On January 6, 2014, petitioner received a Child Care Authorization Information notice, which specified the weekly state authorized payment amount for [REDACTED] LLC, petitioner's co-pay, and the provider's price. This notice indicated that an appeal of this information must have been filed by February 20, 2014. Exhibit 9.
6. On January 27, 2014, petitioner received a Child Care Authorization Information notice, which specified the weekly state authorized payment amount for [REDACTED] LLC, petitioner's co-pay, and the provider's price. This notice indicated that an appeal of this information must have been filed by March 13, 2014. Exhibit 10.
7. Petitioner appealed her co-pay on February 5, 2014.

DISCUSSION

A hearing officer can only hear cases on the merits if there is jurisdiction to do so. There is no jurisdiction if a hearing request is untimely. An appeal of a negative decision concerning Child Care must be filed within 45 days of the negative decision. Wis. Stat. § 49.152(1), Wis. Admin. Code § HA 3.05(3), *Child Day Care Manual*, Chapter 2, § 2.5.0. As such, any appeal pertaining to the notices dated November 22, 2013, and November 25, 2013, is untimely, and I have no jurisdiction over the subject matter of such appeal. Appeals of the determinations made January 6, 2014 and January 27, 2014, are timely, and as such I do have jurisdiction to review those appeals.

Wisconsin Works (W-2) is a comprehensive set of programs designed to help low income individuals move from public assistance to unsubsidized employment. The Child Care Benefit, one of the W-2 programs, is meant to increase recipients' access to child care services so that they may work, attend school, or obtain other training, Wis. Stats. § 49.155. Most Child Care Benefit recipients must make a co-payment, with the state funding the rest of the cost, Wis. Stats. §49.155(4). The petitioner filed this appeal because she questioned the amount of and responsibility for her co-pay, which she described as unaffordable.

During the hearing, the county agency argued that it had correctly calculated the petitioner's child care rate and her co-payment based upon the Day Care Manual §§2.1.0, 2.1.5, 2.1.6 and 2.6.1. The county representative explained that it utilized petitioner's gross income in its budgeting, and petitioner, while noting that her gross is not an accurate representation of how much income she takes home, did not dispute the gross income amount identified by the respondent.

The Wisconsin Shares Child Care Assistance Manual § 3.7.1 provides:

Determination of Co-Payment Responsibility

Co-payment levels for certified and licensed child care are the same. The co-pay schedule is posted at the Wisconsin Shares page at:

<http://dcf.wisconsin.gov/childcare/wishares/default.htm>.

The co-pay amount is based upon family size, income, and the number of children receiving Wisconsin Shares subsidized care. Co-payment levels for authorizations that are 20 hours or less are reduced by 50%.

Co-payments are required under current law for most families receiving Wisconsin Shares with the following case-type exceptions:

- Minor Learnfare teen-parents attending high school or its equivalent.
- Foster parents for their foster children's child care.
- Subsidized guardians for their foster children.
- Relatives who are taking care of someone else's child under a court order.

Based upon my review of the record before me, I conclude that the county agency's rate of payment and the petitioner's co-pay was correctly calculated. The petitioner's co-payments are the petitioner's responsibility as confirmed by the above Child Care Assistance Manual provision. The petitioner was unable to provide any testimony or evidence to refute that the county agency had correctly calculated its rate of payment or her co-payment at that time. I note that there is no provision, deduction, or exception based upon co-pay affordability.

CONCLUSIONS OF LAW

The county agency correctly calculated petitioner's Child Care rate and her co-payment.

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 16th day of April, 2014

\sPeter McCombs
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 16, 2014.

Milwaukee Enrollment Services
Child Care Benefits