



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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

CCB/156240

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**PRELIMINARY RECITALS**

Pursuant to a petition filed March 22, 2014, 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 August 13, 2014, at Racine, Wisconsin.

The issue for determination is whether the Petitioner’s appeal is timely and, if so, whether the agency properly discontinued the Petitioner’s child care benefits in March, 2012.

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: Kelly Kosloske

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

**ADMINISTRATIVE LAW JUDGE:**

Debra Bursinger  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Racine County.
2. In or about October, 2010, Petitioner began receiving Kinship Care benefits for her two grandchildren.

3. In or about March, 2011, the Petitioner's Kinship Care payments were discontinued because she did not proceed with the foster care licensing process.
4. In or about February, 2012, the Petitioner became a legal guardian for the children.
5. On March 5, 2012, the agency issued an eligibility review appointment notice for child care benefits.
6. On March 19, 2012, the agency issued a Notice of Eligibility Child Care to the Petitioner informing her that her child care eligibility would end on March 31, 2012 due to income in excess of program limits and failure to complete the renewal. The notice further informed her that she had a right to a hearing by filing a written request with the Division of Hearings and Appeals by May 16, 2012.
7. On March 26, 2012, the agency issued Child Care Authorization Information to the Petitioner informing her that she was authorized for 41 hours/week of child care for one child and 5 hours/week for another child. The authorization end date was noted to be March 31, 2012.
8. On March 27, 2012, the Petitioner completed her renewal for child care benefits.
9. On March 28, 2012, the agency issued a Notice of Eligibility Child Care to the Petitioner at informing her that she is not eligible for child care beginning April 1, 2012 due to income in excess of program limits. The notice further informed her that she had a right to a hearing by filing a written request with the Division of Hearings and Appeals by May 16, 2012.
10. On March 22, 2014, the Petitioner filed an appeal with the Division of Hearings and Appeals.

### **DISCUSSION**

A hearing officer can only rule on the merits of a case if there is jurisdiction to do so. There is no jurisdiction if a hearing request is untimely. An appeal of a negative action by an agency concerning child care benefits be filed within 45 days of the date of the action.

In this case, the Petitioner asserts that she was not aware that she was not eligible for child care benefits during the month of April, 2012 until she recently receive a bill from the child care provider for child care services during that month.

Based on the evidence presented, the notices to the Petitioner that were issued in March, 2012 clearly indicate that her child care eligibility would end on March 31, 2012. If she disagreed with that determination, she had to file an appeal on or before May 16, 2012. The petitioner's appeal was filed almost two years after the date of the agency action. Thus, it was untimely, and no jurisdiction exists for considering the merits of the case.

### **CONCLUSIONS OF LAW**

The Petitioner's appeal is untimely.

**THEREFORE, it is**

**ORDERED**

That the Petitioner's 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 9th day of September, 2014

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\sDebra Bursinger  
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 September 9, 2014.

Racine County Department of Human Services  
Child Care Benefits