



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

CCB/157544

PRELIMINARY RECITALS

Pursuant to a petition filed May 7, 2014, under Wis. Admin. Code, §HA 3.03(4), to review a decision by Brown County Human Services to discontinue child care, a hearing was held on June 11, 2014, by telephone.

The issue for determination is whether the county correctly ended a child care authorization.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Lisa Pries
Brown County Human Services
111 N. Jefferson St.
Green Bay, WI 54301

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Brown County.
2. Petitioner received child care assistance until the county actions. On March 3, 2014, the county informed petitioner that her two children were authorized for care at Care For All Ages 35 hours per week for the period March 2 through September 6, 2014.
3. On April 15 petitioner had contact with a Wisconsin Works (W-2) planner about her work schedule. On that same day the county requested verification of petitioner's work at [REDACTED].

4. On April 18 the county requested verification of petitioner's work at both [REDACTED] and Walmart.
5. On April 21, 2014, the county sent petitioner a new child care authorization notice informing her that the Care For All Ages authorization ended April 5, 2014. Petitioner immediately took the children out of Care For All Ages.
6. On April 18 the county received the result of a fraud investigation concluding that although they had separate residences, petitioner and the father of her older child acted as an intact family, utilizing the residences interchangeably. The county thus kept the child care closed.
7. On April 21 the county requested verification of the father's income. When it was not provided, the county notified petitioner that child care eligibility would end May 31, 2014 because she did not provide the verification. All programs reopened in June, 2014 when the father was incarcerated.

DISCUSSION

As a first point, petitioner objects to adding the father to her case when they have separate residences. I have no trouble with the agency action, however. An intact family can have separate residences and still be an intact family. Benefits are not based upon the relationship of the parents, but on the parents' relationship with the children (although in this case it is apparent that the parents had an ongoing relationship as well). It appears that petitioner and the children essentially used both residences interchangeably, and the father cared for his child essentially as a full-time caretaker. I note that he would care for the children at both residences, just as petitioner would.

All that is moot now because the father is incarcerated and the case is reopened. However, I find one error by the agency, which is why I detailed the notice history in the findings of fact. On March 3, 2014, the county told petitioner that her children were authorized through September, 2014. On April 21, the county told petitioner that her authorization ended April 6. That cannot happen. By that time petitioner had taken the children to child care and the provider performed the service. A review of the Child Care Manual, Chapter 3, Part 3.8.0, shows that authorization must be ended in the future. An agency cannot retroactively end an authorization. I will order the agency to authorize the 35-hour per week care at Care For All Ages for the period April 6 to April 26, 2014. The provider can bill only for hours the children attended, of course.

Petitioner stopped taking the children to the child care center after that notice, so there is nothing to order for the rest of period.

CONCLUSIONS OF LAW

1. The county correctly sought to add the father of petitioner's older child to petitioner case because they were acting as an intact family even though they had separate residences.
2. The county erroneously ended petitioner's child care authorization retroactively.

THEREFORE, it is

ORDERED

That the matter be remanded to the county with instructions to reinstate the child care authorization for petitioner's children at Care For All Ages for the period April 6 – April 26, 2014. The county shall do so within 10 days of this decision. In all other respects the petition for review is 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 13th day of June, 2014

\sBrian C. Schneider
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin \DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on June 13, 2014.

Brown County Human Services
Child Care Benefits