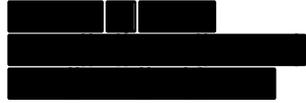




STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

CCB/158301

PRELIMINARY RECITALS

Pursuant to a petition filed June 11, 2014, under Wis. Admin. Code, §HA 3.03(4), to review a decision by Milwaukee Enrollment Services in regard to child care assistance, a hearing was held on July 15, 2014, by telephone.

The issue for determination is whether petitioner filed her six-month report form in April, 2014.

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: Simone Johnson
Milwaukee Enrollment Services
1220 W. Vliet Street
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ) is a resident of Milwaukee County.
2. In the winter, 2014 petitioner received child care assistance. She was scheduled to complete a review by the end of March, 2014. On March 18 the agency sent petitioner a notice telling her that child care would end April 1 because she had not filed her review, and on March 31 the agency sent petitioner a notice telling her that her authorization would end April 5, 2014.
3. On April 2 petitioner faxed her six-month report form (SMRF) to the agency. Although the fax went through, the form was lost.

4. On June 10 petitioner contacted the agency when she realized that her child care had not reopened. Child care was reopened but only effective June 1, 2014.

DISCUSSION

A child care recipient must complete a review every six months. Child Day Care Manual, Chapter 1, §1.15.4. If the review is missed the case closes. The Manual, at Chapter 3, §3.6.25, provides: "When a parent submits a completed SMRF the month after it is due their case can reopen without re-applying for child care assistance. If the parent has continued to be in an approved activity since SMRF due date, the authorization should be backdated to avoid a break in authorization for child care." If a case is closed for thirty days the person must reapply and eligibility can be backdated only to the first of the month of application. Manual, §1.3.6.

I note first that this appeal is timely. Petitioner is not appealing the discontinuance of child care for which she received notice. She is appealing the failure to act on her submitted SMRF. I conclude that petitioner has proven that she submitted the SMRF on April 2. She provided a fax transmittal log from her employer's fax machine showing a five page transmission to Milwaukee Enrollment Services on April 2, 2014, with the log showing that the fax went through. The agency has no record of receiving the SMRF, but for purposes of this decision I conclude that petitioner submitted it and thus is entitled to have child care determined retroactive to April 1, 2014.

CONCLUSIONS OF LAW

Petitioner submitted her child care SMRF within the month that her case closed due to not completing her review, and thus eligibility can be determined back to the first of the month of submission.

THEREFORE, it is

ORDERED

That the matter be remanded to the agency with instructions to determine petitioner's child care assistance eligibility for the months of April and May, 2014 based upon the submission of her SMRF on April 2, 2014, and to grant eligibility and appropriate authorizations if she met the criteria during those months. The agency shall do so within 10 days of this decision.

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 July, 2014

\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 July 16, 2014.

Milwaukee Enrollment Services
Child Care Benefits