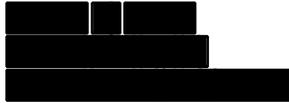




STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

CCO/158413

PRELIMINARY RECITALS

Pursuant to a petition filed June 16, 2014, under Wis. Admin. Code § HA 3.03, to review a decision by the Dunn County Department of Human Services in regard to Child Care, a hearing was held on July 17, 2014, at Menomonie, Wisconsin.

The issue for determination is whether the petitioner must repay an overpayment of child care benefits.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

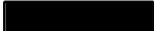
By: Sandra Eckhart

Dunn County Department of Human Services
808 Main Street
PO Box 470
Menomonie, WI 54751

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # ) is a resident of Dunn County.
2. The petitioner's household received \$794.22 in child care benefits from January 8, 2014, through February 28, 2014, for days on which the petitioner was not working.

DISCUSSION

The county agency seeks to recover \$794.22 of the child care benefits the petitioner received from January 8, 2014, through February 28, 2014, because it contends that she was not engaged in a qualifying activity during some of the days in that period. Child Care benefits are provided to W-2 participants who are working in unsubsidized employment, in job training, in a job search under the FoodShare program, or in an approved technical school program. (Benefits are also allowed to those in high school or under 20 years old, but the petitioner is older than that.) Wis. Stat. § 49.155(1m)(a). The W-2 statute requires the department to recover all Child Care overpayments regardless of who is at fault. Wis. Stat. § 49.195(3). The Wis. Adm. Code, § DCF 101.23(1)(g), explains this in the following way:

(g) "Overpayment" or "debt" means any benefit or payment received under s. [49.148](#), [49.155](#), [49.157](#), or [49.19](#), Stats., in an amount greater than the amount that the individual, AFDC assistance group, or W-2 group was eligible to receive under applicable statutes and rules, regardless of the reason for the overpayment. An overpayment may be the result of client error, administrative error, or intentional program violation.

Recipients must report changes of circumstances within 10 days. *Child Care Manual*, § 1.15.1.

The petitioner and her husband care for two of their grandchildren and receive authorizations for periods when they are working. The petitioner has four jobs. She was in a car accident that prevented her from performing one of the jobs, which is as a waitress, something she does two days a week. She did not report this to the county agency because she thought the reporting requirement applied only if she quit or changed a job. After hearing her testify, I believe her. Nevertheless, it is undisputed that she received \$794.22 in benefits from January 8, 2014, through February 28, 2014, for care on days when she was not working. Because the agency must recover all benefits she is not entitled to, I must uphold its decision.

CONCLUSIONS OF LAW

The petitioner must repay an overpayment of child care benefits she received because she did not report that she was not working one of her jobs.

THEREFORE, it is

ORDERED

The petitioner's appeal 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 12th day of August, 2014

\sMichael D. O'Brien
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 August 12, 2014.

Dunn County Department of Human Services
Public Assistance Collection Unit
Child Care Fraud