



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

CCB/159234

PRELIMINARY RECITALS

Pursuant to a petition filed July 23, 2014, under Wis. Admin. Code, §HA 3.03(4), to review a decision by Milwaukee Enrollment Services to discontinue child care assistance, a hearing was held on August 19, 2014, by telephone.

The issue for determination is whether the agency correctly closed child care when the household size was corrected.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Pang Thao-Xiong
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 # [REDACTED]) is a resident of Milwaukee County.
2. In the spring, 2014, petitioner's household consisted of her 18-year-old son S.C., two younger sons including S.S., an unrelated 18-year-old boy E.G., S.C.'s girlfriend S.A., and S.C. and S.A.'s infant child C.J.

3. Petitioner received child care for her son S.S. The child care household included six of the seven people in the actual household. Only S.C. was excluded because he was an 18-year-old attending college. E.G. was removed from the household in June, 2014.
4. The agency discovered an error in the child care household composition. S.A. and C.J. should not have been included. They should have been separated out with S.C. because S.C. is C.J.'s father.
5. When the agency removed the two plus E.G. from the case, petitioner's income put the household over the child care limit. By a notice dated July 15, 2014, the agency informed petitioner that child care would end August 1, 2014 because income was over the limit.
6. Petitioner's gross monthly income was \$3,574.

DISCUSSION

A parent is eligible for child care services if she needs the care to attend Wisconsin Works (W-2) approved school, to work, or to participate in W-2 activities. Wis. Stat., §49.155(1m)(a); W-2 Manual, §15.2.0. The agency must utilize monthly gross income, and for an ongoing case, the income limit is 200% of the federal poverty limit. Wisconsin Shares Child Care Assistance Manual, Chapter 1, §§1.6.3 and 1.6.4. 200% of poverty for a three-person household is \$3,298. DECE/DFES Operations Memo no. 14-05, dated February 21, 2014. The limit for a six-person household is \$5,328.

The big issue is the change to a three-person household. The easy change is that E.G. left the household in June, leaving petitioner, her two minor children, and S.C., S.A., and C.J.

The Child Care Assistance Manual, Chapter 1, §1.3.9 deals specifically with the situation in petitioner's household. When an adult child is in the household with his parent, he must be considered a separate child care unit from the parent unless the parent has legal guardianship. The example closest to the situation in this case is found on page 28 of the Manual: "A grandmother, an adult mother, and the adult mother's baby live in the same house. The AG [assistance group] consists of the adult mother and her baby. The grandmother is not in the AG unless the grandparent has guardianship of both the adult mother and her dependent child." In this case it is the grandmother and both adult mother and adult father, but the result is the same. The parents are in a separate child care household from the grandmother.

S.C. and S.A. cannot be part of petitioner's child care assistance group because they are adults for whom petitioner does not have guardianship. C.J. cannot be in petitioner's assistance group because he must be in his parents' group. Thus at present petitioner's assistance group is only herself and her two remaining minor children. Her income thus is compared to the income limit for a three-person household, and the agency correctly determined that her income is over the limit.

CONCLUSIONS OF LAW

1. The agency correctly excluded petitioner's son S.C., his girlfriend S.A., and their child from petitioner's child care assistance group because S.C. and S.A. are adults who must have their own assistance group.
2. Petitioner's income is over the limit for a three-person household.

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 25th day of August, 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 August 25, 2014.

Milwaukee Enrollment Services
Child Care Benefits