



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

CCB/159296

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 determined petitioner's income during the summer months.

PARTIES IN INTEREST:

Petitioner:



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. Petitioner receives child care assistance for her son. She is employed by the [redacted] on a 9.5 month contract. She has a second job with [redacted] in [redacted]. Although she is employed there year-round, she increases her hours during the summer.
3. After a review the agency determined that petitioner's yearly school income should be divided by 9.5 to determine monthly income. It took petitioner's anticipated income from [redacted], and

for August, 2014 benefits it added both incomes. By a notice dated July 10, 2014, the agency informed petitioner that child care would end August 1 because her income is over the limit. Benefits were continued pending this decision.

### 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 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 two-person household is \$2,622. DECE/DFES Operations Memo no. 14.05, dated February 1, 2014. Weekly income is multiplied by 4.3 to determine monthly income (because there are slightly more than four weeks in a month). Child Care Manual, Chap. 1, §1.6.6.

There are special rules for budgeting income of people who work on a contractual basis such as school employees: “Contractual income that is the food unit's annual income (intended to provide support for the entire year), and is not paid on an hourly or piece work basis, should be prorated over 12 months.” Manual, Chap. 1, §1.6.9. However, the Manual includes a proviso that if the person actually uses the 12-month income over the 9½ month school year, and supplements the income with another job in summer, then the school income should be divided by 9½.

The problem in this case is that the agency divided the school income by 9½, but then continued to budget it for August, resulting in both incomes being counted, and thus putting petitioner over the income limit. I conclude that it was correct to divide the annual school income by 9½, but that the school income should not have been budgeted during July and August. It should start being budgeted again in September, and concurrently for September petitioner’s second income should be reduced.

I note that petitioner’s situation does not fit the example precisely. She actually works the second job year-round, but at substantially reduced hours during the school year. She also begins working for the school in August and receives income from it. However, the income she receives in August already is counted in the 9½ month averaging, so it would make no sense to count it again for August. For the last week in August, when she is working both jobs amounting to full-time work, the child care agency can still authorize full-time child care even though the income from the school job will not be budgeted until September.

### CONCLUSIONS OF LAW

Although the agency correctly divided petitioner’s school income by 9½ to determine monthly income, it erred by counting the school income for August.

**THEREFORE, it is**

**ORDERED**

That the matter be remanded to the county with instructions to re-determine petitioner’s August, 2014 child care eligibility by removing her income from [REDACTED] [REDACTED] from the calculations. The agency also should authorize child care hours based upon petitioner’s expected work schedule from both jobs for late August, 2014. The agency shall take the action 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 22nd day of August, 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](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on August 22, 2014.

Milwaukee Enrollment Services  
Child Care Benefits