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[REDACTED]

STATE OF WISCONSIN  
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

[REDACTED]

PRELIMINARY RECITALS

Pursuant to a petition filed August 04, 2014, under Wis. Admin. Code § HA 3.03, to review a decision by the Milwaukee Early Care Administration - MECA in regards to overpayments of Child Care benefits, a telephone hearing was held on August 27, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the Department correctly determined that the petitioner was overpaid Child Care benefits of \$658.11 (February – May, 2014) and \$494.44 (June – July, 2014) due to an intentional program violation related to income reporting.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

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

By: Glennetta Rucker  
Milwaukee Early Care Administration - MECA  
Department of Children And Families  
1220 W. Vliet St. 2nd Floor, 200 East  
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Kenneth D. Duren, Assistant Administrator  
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County. She was a casehead that received child care assistance totaling at least \$9,980.81 during the period of February 2 – July 31, 2014.

2. On July 15, 2014, the Department issued a Child Care Client Overpayment Notice to the petitioner informing her that the agency had determined she had been overpaid \$658.11 in the period of February 2 – May 31, 2014, due to an intentional program violation in failing to or misrepresenting, change in her household income. Worksheets demonstrating the calculations were also attached. See, Exhibit #R-1.
3. On August 4, 2014, the petitioner filed an appeal contesting the Child Care overpayment determination of July 15, 2014.
4. On August 14, 2014, the Department issued a Child Care Client Overpayment Notice to the petitioner informing her that the agency had determined she had been overpaid \$494.44 in the period of June 1 – July 31, 2014, due to an intentional program violation in failing to or misrepresenting, change in her household income. Worksheets demonstrating the calculations were also attached. See, Exhibit #R-1.
5. Both matters were heard in one appeal hearing on August 27, 2014, by the undersigned Administrative Law Judge.
6. At the hearing on August 27, 2014, the petitioner admitted that the agency had fully and correctly counted her income and determined the two overpayment amounts stated in Findings Nos. 2, and 4, above, and that she did not contest the computations or findings.
7. No issue of material fact remains in controversy.

### **DISCUSSION**

Wis. Stat., §49.195(3), provides as follows:

A county, tribal governing body, Wisconsin works agency or the department shall determine whether an overpayment has been made under s. 49.19, 49.148, 49.155 or 49.157 and, if so, the amount of the overpayment.... Notwithstanding s. 49.96, the department shall promptly recover all overpayments made under s. 49.19, 49.148, 49.155 or 49.157 that have not already been received under s. 49.161 or 49.19(17) and shall promulgate rules establishing policies and procedures to administer this subsection.

Child care subsidies are authorized in Wis. Stat., §49.155, and thus they are within the parameters of §49.195(3). Recovery of child care overpayments also is mandated in the Wis. Admin. Code, §DCF 101.23. An overpayment is any payment received in an amount greater than the amount that the assistance group was eligible to receive, regardless of the reason for the overpayment. Wis. Admin. Code, §DCF 101.23(1)(g). Recovery must occur even if the error was made by the agency.

The Wisconsin Shares Child Care Assistance Manual sets out the policies for the program. The Manual, Chapter 2, §2.1.5.1 at page 17, explains how to calculate an overpayment related to program eligibility where the recipient fails to report a change timely: “If the change is not reported timely, the change should be considered effective the date of the change. The overpayment period would begin the first full week following the change.”

The agency provided proof of the petitioner’s income and the computations of the overpayments in the two claim periods. The petitioner did not contest the income or the computations, or point to any error whatsoever. Rather, she asserted that she wished to contest ongoing benefits discontinuance. That matter will, however, be addressed by a different judge in a different hearing. Under these facts, both child care overpayment claims must be sustained.

### **CONCLUSIONS OF LAW**

The agency correctly determined that petitioner was overpaid child care benefits of \$658.11 in the period of February 2 – May 31, 2014; and \$494.44 in the period of June 1 – July 31, 2014, because she under reported her income intentionally or by misrepresentation.

**THEREFORE, it is**

**ORDERED**

That the petition for review herein be, and the same hereby 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 3rd day of September, 2014

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\sKenneth D. Duren, Assistant Administrator  
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 September 3, 2014.

Milwaukee Early Care Administration - MECA  
Public Assistance Collection Unit  
Child Care Fraud  
[Glennetta.Rucker@wisconsin.gov](mailto:Glennetta.Rucker@wisconsin.gov)