



**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

CCO/159726

PRELIMINARY RECITALS

Pursuant to a petition filed August 08, 2014, under Wis. Admin. Code §HA 3.03, to review a decision by the Milwaukee Early Care Administration - MECA in regard to Child Care, a telephonic hearing was held on September 10, 2014.

The issue for determination is whether the agency correctly calculated the child care overpayments for claim numbers [REDACTED] and [REDACTED].

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

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Respondent:

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

By: Keisha Love, Child Care Subsidy Spec.
Milwaukee County Department of Human Services
1220 W. Vliet Street
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Kelly Cochrane
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner received child care assistance before, during, and after the overpayment periods relevant to this matter.

3. On July 8, 2014 the agency reviewed Petitioner's case and discovered that the income of petitioner would have been over the child care income limit for periods of time in which she received child care benefits.
4. By a notice mailed on July 8, 2014 for Claim Number [REDACTED], the agency informed Petitioner that she was overpaid \$4367.61 in child care during the period May 5, 2013 through November 30, 2013 due to client error for failing to report a change in income.
5. By a notice mailed on July 8, 2014 for Claim Number [REDACTED], the agency informed Petitioner that she was overpaid \$1781.20 in child care during the period February 2, 2014 through May 31, 2014 due to client error for failing to report a change in income.

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). An overpayment is the result of client error when the client makes an unintentional or inadvertent error by either reporting incorrect information or failing to report information. Wisconsin Shares Child Care Assistance Manual, §2.1.5.1. The agency must recover all overpayments. *Id.* at §2.1.5.2. There is six year limit for the agency to collect overpayments made due to client error. *Id.*

It was not argued that income was over the limit. Petitioner admitted that she did not report her bonuses to the agency. Petitioner stated that reporting each bonus seemed to create a lot of additional steps. The agency informed Petitioner, and Petitioner is aware that even if there are additional steps, she is to report any change in her circumstances to the agency within 10 days of that change. This process was previously described to her in notices issued to her. See Exhibits H, I, and J.

I have reviewed all of the calculations in this case. Petitioner did not dispute the income the agency used in calculating the overpayment. The Child Care Assistance Manual, §1.6.3, provides that a household's gross income must be under 200% of poverty to be eligible for child care assistance.

For overpayment claim number [REDACTED] the gross income limit for a family of three was \$3,255.00. Petitioner was over the income limit in May 2013, August 2013, October 2013, and November 2013. In May 2013 Petitioner received \$1,122.92 in child care assistance. In August 2013 Petitioner received \$1,111.73 in child care assistance. In October 2013 Petitioner received \$1066.48 in child care assistance. In November 2013 Petitioner received \$1,066.48 in child care assistance. This totals \$4,367.61, which is the overpayment amount for claim number [REDACTED]. Petitioner did not dispute these calculations.

For overpayment claim number [REDACTED] the gross income limit was \$3,298.00. Petitioner was over the income limit in February 2014 and May 2014. In February 2014 Petitioner received \$1,148.00 in child care assistance. In May 2014 Petitioner received \$633.20 in child care assistance. This totals \$1,781.20, which is the overpayment amount for claim number [REDACTED]. Petitioner did not dispute

these calculations. Based upon the evidence before me, I must uphold the overpayments in claim numbers [REDACTED] and [REDACTED]

CONCLUSIONS OF LAW

The agency correctly calculated the child care overpayments (claim numbers [REDACTED] and [REDACTED]).

THEREFORE, it is ORDERED

That the petition is dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted. The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found 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 served and filed with the appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Children and Families. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 201 East Washington Avenue, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,
Wisconsin, this 22nd day of September, 2014

\sKelly Cochrane
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 22, 2014.

Milwaukee Early Care Administration - MECA
Public Assistance Collection Unit
Child Care Fraud