



STATE OF WISCONSIN  
Division of Hearings and Appeals

In the Matter of



DECISION

CCB/159740

**PRELIMINARY RECITALS**

Pursuant to a petition filed August 06, 2014, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Milwaukee Enrollment Services in regard to Child Care, a hearing was held on September 24, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly denied Petitioner’s application for child care assistance because Petitioner was over the gross income limit.

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: Pang Thao-Xiong  
Milwaukee Enrollment Services  
1220 W Vliet St, Room 106  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Corinne Balter  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # ) is a resident of Milwaukee County. Petitioner’s household size is 2.
2. On July 22, 2014 Petitioner applied for childcare assistance.

3. On July 25, 2014 the agency denied Petitioner's application for childcare assistance because Petitioner's gross income was over the gross income program limit.
4. Petitioner's gross income is \$2,731.05 consisting of \$1,488.92 from Petitioner's employment at [REDACTED], \$919.55 from Petitioner's employment at [REDACTED] and \$322.58 from the child's SSI.
5. On August 11, 2014 the Division of Hearings and Appeals received Petitioner's request for fair hearing.

### DISCUSSION

All child care funding distribution falls under the aegis of the Wisconsin Works (W-2) program, regardless of whether or not the applicant is actually a participant in W-2 activities. Wis. Stat § 49.155(1m). Prior to January 1, 2004, any parent desiring to contest child care assistance overpayments was required to request a fact-finding review from the issuing W-2 agency. Effective November 24, 2003, the Department of Workforce Development changed the process to provide recipients of such assistance a fair hearing from the Division of Hearings & Appeals. See, *DWD Operations Memo*, #03-66. See also, Wis Stat §49.195(3), § 49.152(2), & § 227.42, *et. seq.*

A person applying for childcare assistance must have gross income below 185% of the federal poverty level. *Childcare Policy Manual* § 1.6.2, see <http://dcf.wisconsin.gov/childcare/wishares/pdf/chapter1.pdf>, last viewed September 2014. The federal poverty level for a household size of 2 is \$2,425.00. The childcare program only looks at gross income, not net income. *Id.*

In this case Petitioner does not dispute that his gross income is \$2,731.05. Petitioner argued that his net income was much lower. Petitioner paystubs show that he is correct. His take home income from one of his jobs was \$0.00. Nonetheless, that is income that is available to him that is being used to pay off other debts. Childcare only looks at gross income, and Petitioner's gross income is over the gross income limit.

### CONCLUSIONS OF LAW

The agency correctly denied Petitioner's application for childcare assistance.

**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 1st day of October, 2014

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\sCorinne Balter  
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 October 1, 2014.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability