



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[Redacted case name]

DECISION

CCB/159752

PRELIMINARY RECITALS

Pursuant to a petition filed August 11, 2014, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Sheboygan County Department of Human Services in regard to Child Care, a hearing was held on September 11, 2014, at Sheboygan, Wisconsin.

The issue for determination is whether the Petitioner's appeal is timely and, if so, whether the agency properly terminated the Petitioner's child care benefits.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[Redacted name and address]

Respondent:

Department of Children and Families
201 East Washington Avenue
Madison, Wisconsin 53703
By: Kris Schmidt
Sheboygan County Department of Human Services
3620 Wilgus Ave
Sheboygan, WI 53081

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [Redacted]) is a resident of Sheboygan County.
2. On October 4, 2013, the agency issued a Notice of Eligibility Child Care to the Petitioner at [Redacted] informing the Petitioner that she is eligible for child care benefits. On October 14, 2013, the agency issued a Child Care Authorization Information notice to the

Petitioner at the [REDACTED] address informing her of the authorizations for her two minor children. The notice indicated that one child's authorization would end in January, 2014 and a second child's authorization would end in April, 2014. The notice also informed the Petitioner that she must report a move to a different address to her child care eligibility worker within 10 days of the date of the change.

3. On December 20, 2013, the agency issued a Notice of Eligibility Child Care to the Petitioner at the [REDACTED] address informing the Petitioner that her child care eligibility ends January 31, 2014. The notice informed her of the right to an appeal by submitting a request for a hearing by March 18, 2014.
4. On January 13, 2014, the agency issued a notice to the Petitioner at the [REDACTED] address informing her that her child care authorizations for [REDACTED] (her minor child) were ending effective January 18, 2014. The notice informed her of the right to an appeal by submitting a request for hearing by February 27, 2014.
5. On January 20, 2014, the agency issued a notice to the Petitioner at the [REDACTED] address informing her that her child care authorizations for [REDACTED] (her minor child) were ending on February 1, 2014. The notice informed her of the right to an appeal by submitting a request for hearing by March 6, 2014.
6. On January 27, 2014, the Petitioner contacted the agency to report a change in address to Plymouth in Sheboygan County. The Petitioner moved to Plymouth between September – November, 2013. The Petitioner's child care case was moved from Milwaukee County to Sheboygan County on or about February 1, 2014.
7. In June, 2014, the Petitioner contacted the agency to find out why her child care benefits had been discontinued.
8. On August 11, 2014, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

A hearing officer can only rule on the merits of a case if there is jurisdiction to do so. There is no jurisdiction if a hearing request is untimely. An appeal of a negative action by a county agency concerning Wisconsin Shares child care eligibility must be filed within 45 days of the date of the action. Wis. Stats. § 49.152(1). The petitioner's appeal was filed 192 days after the date of the action.

At the hearing, the Petitioner conceded that she reported her address in January. She testified that the child care worker told her to switch her child care provider at that time. She states that she was never informed that her benefits were ending and that she needed to file a renewal. There are numerous case comments in January, February and March, 2014 between the agency and the Petitioner about late wage verifications. The Petitioner's renewal was not completed until well beyond the due date. It appears that her child care closed as a result of the late renewal as well as her failure to timely report her address change.

It was the responsibility of the Petitioner to report her change of address within 10 days of her move. She failed to do so resulting in her not receiving the notices regarding her child care renewal. While the Petitioner did report her address change 3 days prior to child care benefits ending, it is clear from the case comments that she did not complete her renewal in a timely manner as well.

Based on the evidence, I conclude the Petitioner's appeal is not timely and I have no jurisdiction to rule on the merits of the case.

CONCLUSIONS OF LAW

The Petitioner's appeal is not timely.

THEREFORE, it is

ORDERED

The Petitioner's appeal 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 24th day of November, 2014

\sDebra Bursinger
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 November 24, 2014.

Sheboygan County Department of Human Services
Child Care Benefits