



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

CCB/160120

PRELIMINARY RECITALS

Pursuant to a petition filed August 23, 2014, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Racine County Department of Human Services in regard to Child Care, a telephone hearing was held on September 25, 2014.

The issue for determination is whether the agency correctly denied Petitioner's application for Childcare benefits.

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: Rhonda Kramer

Racine County Department of Human Services
1717 Taylor Ave
Racine, WI 53403-2497

ADMINISTRATIVE LAW JUDGE:

Corinne Balter

Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [redacted]) is a resident of Racine County.
2. On August 4, 2014 Petitioner made a phone request for Childcare (CC) benefits.
3. On August 5, 2014 the agency sent Petitioner a Notice of Proof needed.

4. On August 8, 2014 the agency received some of the proof or verification that they had requested. The agency never received proof that Petitioner was in an Approved Activity.
5. On August 13, 2014 the agency sent Petitioner a notice stating that she was denied Childcare benefits.
6. On August 25, 2014 the Division of Hearings and Appeals received Petitioner's request for fair hearing.

DISCUSSION

Childcare (CC) benefits are available in situations where it is a necessity for a parent to have childcare in order to go to her job or perform an "approved activity." *Manual*, §1.4.8. Department policy contains a specific list of "approved activities" that justify the need for CC benefits. The lists identifies these activities as: high school attendance, unsubsidized employment, pre-job training not exceeding two weeks' duration, contractual apprenticeship, sheltered employment, some self-employment, W-2 jobs, FSET participation, some ESL/literacy education, and some technical college programs if the participant is employed at least five hours per week during the semester. *Manual*, §1.5.0-1.5.7.

There is minimal federal law that sets the terms of the CC program. The state administrative code does not discuss the specifics of postsecondary student eligibility for CC. The relevant state statute says that the Department may find a parent eligible for CC if she is participating in a course of study at a technical college "as determined by the department." Wis. Stat. §49.155(1m)(a)5. This would seem to allow the Department to impose the five hour work requirement as a condition of eligibility. Prior hearing decisions have so concluded; see Decision CCB-70/104551(2009). Because there is no dispute that the petitioner was not gainfully employed for at least five hours per week, the household was not entitled to a CC authorization during the summer of 2010.

In this case Petitioner admits that she did not satisfy the five hour per week work requirement in order to receive CC benefits. Petitioner states that she is in school and wanted CC for when she attended school because her husband works full time. Under the program rules, Petitioner must attend school and be employed five hours per week to qualify for CC benefits. Petitioner can reapply for CC benefits in the future if she thinks that she meets the program requirements.

CONCLUSIONS OF LAW

The agency correctly denied Petitioner's application for CC benefits.

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 3rd day of October, 2014

\sCorinne Balter
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
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on October 3, 2014.

Racine County Department of Human Services
Child Care Benefits