



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

CCB/160123

PRELIMINARY RECITALS

Pursuant to a petition filed August 22, 2014, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Douglas County Department of Human Services in regard to Child Care, a hearing was held on September 23, 2014, at Superior, Wisconsin.

The issue for determination is whether the county agency correctly determined the amount Child Care Benefits the petitioner is entitled to.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Tom Ostrander

Douglas County Department of Human Services
1316 North 14th Street
Suite 400
Superior, WI 54880

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Douglas County.
2. The petitioner and her husband are self-employed.

DISCUSSION

The Wisconsin Shares Child Care program provides Child Care assistance to W-2 participants who participate in approved activities. Wis. Stat. § 49.155(1m)(a); *Day Care Manual*, § 1.1.1. The income limit for new applicants is 185% of the federal poverty level and 200% of federal poverty level “for an individual who is already receiving a child care subsidy.” Wis. Stat. § 49.155(1m)(c)1. Child Care policy found at *Day Care Manual*, § 3.6.1.2., states: “Authorizations for self-employment are only allowed to the extent that they support employment that produces monthly-adjusted self-employment income equivalent to at least the state minimum wage.” If both parents are employed or in some other approved activity, “[e]ligibility for child care is only for the overlapping hours when both parents are in approved activities.” *Id.*, 1.4.8.2.

The petitioner and her husband are both self-employed. Based upon her income, which is lower than his, the county agency determined that she was entitled to six hours of child care per month. It now agrees that her duties have increased since its determination and has allowed her 21 hours of care a month, retroactive to July 2014. She agrees that this is reasonable. There is still some question concerning how many future hours of care she will be allowed for her child who is in school, but she can file a new appeal if she disagrees with the agency’s determination.

CONCLUSIONS OF LAW

The petitioner is entitled to 21 hours of subsidized Child Care per month for each of her children, retroactive to July 1, 2014, as long as they are not in school.

THEREFORE, it is

ORDERED

That this matter is remanded to the county agency with instructions that within 10 days of the date of this decision it allow her 21 hours of Child Care per month for each of her children, retroactive to July 1, 2014. As of the beginning of the 2014-15 school year, the agency can adjust the hours allotted to care for the older child based on that child’s school schedule. If the petitioner disagrees with the number of hours allotted to the older child, she may file a new appeal.

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 25th day of September, 2014

\sMichael D. O'Brien
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 September 25, 2014.

Douglas County Department of Human Services
Child Care Benefits