



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[Redacted]
[Redacted]
Redact
[Redacted]

DECISION

CCB/160711

PRELIMINARY RECITALS

Pursuant to a petition filed September 17, 2014, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Milwaukee Enrollment Services in regard to Child Care (CC), a hearing was held on October 15, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the Department correctly discontinued the petitioner's CC benefits for the month of July 2014.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[Redacted]
Redact
[Redacted]

Respondent:

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

By: [Redacted], IM Spec. Advanced
Milwaukee Enrollment Services
1220 W. Vliet St., Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon (telephonically)
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [Redacted]) is a resident of Milwaukee County.
2. The petitioner had an ongoing CC case for her household prior to July 2014. Her case was due for a periodic renewal in June 2014. She submitted the renewal document on June 19, 2014, but it lacked verification of her address.

3. On June 20, 2014, the Department mailed an address verification letter to the petitioner, with a verification due date of June 30, 2014. *See*, Exhibit 2A. The requested verification was not received by the deadline.
4. On July 1, 2014, the Department mailed written notice to the petitioner advising that her pending case closure for July 1 had gone into effect. The basis for closure was failure to supply address verification. *See*, Exhibit 2B.
5. On July 23, 2014, the petitioner contacted the Department and inquired as to the status of her CC benefits. She was advised that she needed to submit address verification. Another verification notice was mailed on July 24, 2014, with a due date of August 1, 2014. The requested verification was not received by the deadline. The petitioner contacted the agency on July 31 to report that she was no longer employed; she was again advised that her case lacked address verification. The agency mailed another address verification letter to the petitioner on July 31, 2014, with a due date of August 11, 2014. Verification was not received by the deadline. On August 13, 2014, another notice was sent to the petitioner, advising that her CC case continued to be closed, effective July 1, 2014.
6. The petitioner re-applied for CC on August 29, 2014, and provided verification of her address. The Department then opened her CC case, retroactive to August 1, 2014.

DISCUSSION

Wis. Stat § 49.155 authorizes the department to operate a child care subsidy program for Wisconsin Works (W-2) recipients and working parents. *See also*, *W-2 Manual*. The department has a *Child Care Manual* that provides program policies, at <http://dcf.wisconsin.gov/childcare/wishares/manual.htm>.

To qualify for Childcare Assistance (CC), a parent or “person acting in the place of a parent” must have a low income. Wis. Stat. §49.155(1)(c), & (1m). Specifically, new applicants cannot have income exceeding 185% of the Federal Poverty Level (FPL) and ongoing recipients cannot have income exceeding 200% FPL. *Child Care Manual (Manual)*, §§1.6.2 & 1.6.3. The petitioner’s income is not an issue here.

The petitioner’s case was closed due to a procedural problem – failure to complete a periodic review. The agency is required to redetermine a parent’s eligibility for CC every six months or upon the report of a material change. Wis. Admin. Code §DCF 201.04(3); Wis. Stat. §49.155(3)(e). Not surprisingly, neither the statute nor rule sets out the details of the review process.

The *Manual* reiterates the requirement that the CC case be reviewed every six months. *Manual*, 1.15.3. The review process includes submission of a review form (which was done here), followed by the agency’s request for any missing verification. *Id.*, §§ 1.3.3 – 1.3.6. In this case, verification of residence was missing, and the agency repeatedly requested that verification. Residence is an item that must be verified. *Id.*, § 1.7.2. The petitioner did not supply the residence verification until August 29, more than 30 days after her case had closed.

A case that has been closed for more than 30 days requires a new application in order for CC benefits to begin again:

1.3.6.1 Cases Closed for Thirty (30) Days or Longer

If a Wisconsin Shares child care assistance case is closed for a calendar month the parent or person acting in the place of a parent must re-apply for child care assistance.

Id., § 1.3.6.1. Upon receipt of the new, complete application, the agency may go back to the first of month with the newly reinstated CC benefits:

1.3.6 Eligibility Determination

Once the verification has been determined to be complete, the agency has seven (7) business days to determine eligibility. Eligibility may be backdated only to the first of the month of the application filing date, unless the applicant requested an intake appointment and was given an appointment for the following month; ...

Id., § 1.3.6. Thus, the agency's action of backdating CC coverage to the first of the application month (August) was correct.

The petitioner does not deny receiving the multiple verification requests or the July 1 discontinuance notice from the agency. She pointed out that on July 3 she brought in a HUD document stating that she was eligible to be a tenant in a HUD property, but it listed no address for her. Also, the agency again sent a residence verification request to her on July 24, which alerted her that her verification was inadequate. The petitioner also testified that she brought her cable bill to the agency's scanning desk on an unknown date in July. She stated that her cable bill bore her address. However, the agency has no record of her cable bill being submitted as verification. The practice of the agency's scanning desk is to date-stamp the document, scan it, and return the document to the petitioner. The petitioner did not bring the document, bearing the date-stamp, to hearing. The preponderance of the credible evidence does not support the petitioner's contention that she verified her residence with her cable bill in July 2014. Accordingly, the agency's discontinuance of her CC case throughout the month of July 2014 was correct.

CONCLUSIONS OF LAW

1. The Department correctly discontinued the petitioner's CC eligibility for July 2014, based on a "failure to complete a review" (lack of residence verification) theory.

THEREFORE, it is

ORDERED

That the petition is dismissed.

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 23rd day of January, 2015

\sNancy J. Gagnon
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 January 23, 2015.

Milwaukee Enrollment Services
Child Care Benefits