



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Redact

DECISION

CCB/161640

PRELIMINARY RECITALS

Pursuant to a petition filed October 28, 2014, under Wis. Admin. Code, §HA 3.03(4), to review a decision by the Portage County Dept. of Human Services to deny child care assistance, a hearing was held on January 14, 2015, by telephone.

The issue for determination is whether the county correctly denied child care after petitioner's September, 2014 application.

PARTIES IN INTEREST:

Petitioner:

Redact

Respondent:

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

By: Redact
Portage County Dept. of Human Services
817 Whiting Avenue
Stevens Point, WI 54481-5292

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # Redact) is a resident of Portage County.
2. Petitioner applied for child care assistance on September 1, 2014, for help with care for her granddaughter. On September 19, the county requested a number of items of verification including pay stubs from the last 30 days for petitioner and her husband (or a statement from the employers with income information). The due date was September 29, 2014.

3. The verification was not received by September 29. On October 1, 2014, the county notified petitioner that child care assistance was denied because she did not provide verification.
4. Petitioner actually mailed the items before September 29 but the agency did not receive them until October 1. The verification was processed and everything was complete except that petitioner's husband's most recent pay stub was not included (petitioner sent the pay stubs instead of the employer statements). Pay stubs for petitioner's husband were from September 3, September 10, and September 17; September 24 was not included.
5. Petitioner contacted a county worker on October 6; the worker told her that everything was in except for her husband's fourth pay stub. On October 22 the agency received another pay stub for petitioner's husband, but it was a duplicate of the September 3 stub. Petitioner called to inquire about the status on October 28, and was told that the application remained denied because the wrong pay stub was sent in on October 22. Petitioner then filed this appeal.

DISCUSSION

Wis. Stat., §49.155 authorizes the department to operate a child care subsidy for Wisconsin Works (W-2) recipients and working caretakers. The department has a Child Day Care Manual that provides the specific policies for the program.

To determine child care eligibility, the worker may request verification of certain items. Child Day Care Manual, Part 1.7.0. It is the applicant's responsibility to provide the verification. Id., §1.7.3. If verification is unduly burdensome, the process can be extended for up to thirty days. Id., §1.7.5. Failure to provide verification is a reason to deny the application. Id., §1.7.7.

In a new application where verification is not received timely, the county must send a notice denying eligibility and telling the applicant that verification is missing. Manual, §1.3.4. If verification is then received within 30 days of the last day of the application month, authorization can go as far back as the last Sunday of the month prior to the application month. §1.7.6 of the Manual provides as follows:

If the applicant has made a reasonable effort and cannot obtain the information, the application must not be denied based upon the information that could not be obtained. Instead, the agency must use the available information to process the case and then reassess the case when the requested information is received.

Technically the provision of §1.7.6 does not apply in this situation because the problem was not that petitioner was unable to obtain the pay stub, it was that she confused which pay stub to file. Nevertheless, the Manual provisions are written so that it is clear that the applicant should be given the benefit of the doubt if she is trying to cooperate with the process.

I conclude that petitioner should be given another opportunity to complete her September 10, 2014 application. I do so for two reasons. First, she was trying to comply with the verification requirements. Second, she got almost no help from the agency. If petitioner had not called on October 6 and October 28, she would not have had any idea what happened to the verification she filed. The county at very least should have contacted petitioner after the two verification filings to let her know what was happening.

The matter will be remanded specifically for the county to obtain petitioner's husband's September 24, 2014 pay stub, or if it is unavailable, a statement from his employer showing his income in September, 2014. If it is received, the county then shall re-process petitioner's September 10 application. If new financial information is needed for ongoing eligibility, the county can ask for updated income verification also.

Petitioner should note that eligibility can be backdated only to the Sunday before September 1, 2014. Although someone told her that an application can be backdated 30 days, the correct policy is that it can be backdated to the Sunday before the first day of the application month. This office cannot make an exception to that rule.

CONCLUSIONS OF LAW

The county erred by denying petitioner's child care for lack of verification when it was evident that petitioner was attempting to comply with the verification request but was confused by what exactly was missing.

THEREFORE, it is

ORDERED

That the matter be remanded to the county with instructions to allow petitioner to complete the necessary verification on her September 10, 2014 child care application, and if she does so, to determine and grant appropriate eligibility. The county shall do so within 10 days of this decision subject to delays necessary to obtain the verification.

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 20th day of January, 2015

\sBrian C. Schneider
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 20, 2015.

Portage County Department of Human Services
Child Care Benefits