



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

CCO/161801

PRELIMINARY RECITALS

Pursuant to a petition filed November 07, 2014, under Wis. Admin. Code § HA 3.03, to review a decision by the Milwaukee Early Care Administration - MECA in regard to Child Care, a hearing was held on December 02, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the Petitioner is liable for an overpayment of benefits caused by agency error.

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: Tamika Terrell, Child Care Subsidy Specialist
Milwaukee Early Care Administration - MECA
Department of Children And Families
1220 W. Vliet St. 2nd Floor, 200 East
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [redacted]) is a resident of Milwaukee County.
2. On October 2, 2014, the Department of Children and Families (DCF) sent the Petitioner a manual Child Care Client Overpayment Notice, indicating that he was overpaid child care benefits, in the

amount of \$8,334.83 for the period of March 9, 2014 to July 31, 2014, due to an administrative error. (Exhibit 2; attachment B, pg. 3)

3. On October 3, 2014, Milwaukee Enrollment Services (MILES) sent the Petitioner an automated Child Care Overpayment Notice, claim number [REDACTED], indicating that he was overpaid \$8,334.83 in childcare benefits for the period of March 9, 2014 to July 31, 2014, due to non-client error; the agency failed to budget all of the Petitioner's earned income. (Exhibit 2, attachment B, pg. 1)
4. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on November 7, 2014. (Exhibit 1)

DISCUSSION

The county agency is legally required to seek recovery of all overpayments of child care benefits. Wis. Stat. § 49.195(3) An overpayment occurs when an individual receives more childcare benefits that he or she was entitled to received. Wis. Admin. Code §DCF 201.04(5)(a)

The county agency / Department of Children and Families must determine whether an overpayment has occurred; it must notify the recipient, and it must give the recipient an opportunity for a review and hearing. Wis. Stat. § 49.195(3), *Wisconsin Shares Child Care Manual (CCM)*, §§2.1.5.2 and 2.1.5.3 See also, Wis Stats. Sec. § 49.152(2), & § 227.42, *et. seq.*

The Petitioner does not dispute the fact that an overpayment of childcare benefits occurred as described above in the Findings of Fact, because the agency failed to correctly budget his income. More specifically, the agency did not count the bonus income that the Petitioner timely reported when he provided the agency with his paystubs. However, the Petitioner argues that he should not be required to repay the benefits, because the agency caused the overpayment.

The applicable overpayment rule requires recovery of the overpayment, regardless of fault. Wis. Admin. Code §DCF 201.04(5)(a). See in accord, *CCM* §2.1.5.2. Thus, even if the overpayment was caused by agency error, the agency may still establish an overpayment claim against the Petitioner. This provision may be viewed online by the Petitioner at <http://dcf.wisconsin.gov/childcare/wishares/pdf>.

CONCLUSIONS OF LAW

The Petitioner is liable for an overpayment of benefits, even though it was caused by agency error.

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 Milwaukee,
Wisconsin, this 10th day of February, 2015.

\sMayumi M. Ishii
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 February 10, 2015.

Milwaukee Early Care Administration - MECA
Public Assistance Collection Unit
Child Care Fraud