



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

CCO/163375

PRELIMINARY RECITALS

Pursuant to a petition filed January 21, 2015, under Wis. Admin. Code § HA 3.03, to review a decision by the Kenosha County Human Service Department in regard to Child Care, a telephonic hearing was held on February 12, 2015.

The issue for determination is whether petitioner was overpaid because she received child care benefits when she was not working and was not in any approved W-2 activity.

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, Room G200
Madison, Wisconsin 53703

By: Karen Mayer, Fair Hearing Coordinator
Kenosha County Human Service Department
8600 Sheridan Road
Kenosha, WI 53143

ADMINISTRATIVE LAW JUDGE:

Kelly Cochrane
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Kenosha County and was a recipient of child care benefits from at least July 11, 2014-October 31, 2014.
2. On July 16, 2014 petitioner signed a Voluntary Declining Aid form for W-2. See Exhibits 1 and 2.
3. On September 3, 2014 petitioner applied for W-2. She stated on the application that she was working at [REDACTED] part time. See Exhibit 3.
4. On September 3, 2014 the petitioner signed a job search agreement and an employability plan. See Exhibits 4 and 5.
5. On September 16, 2014 the petitioner signed an updated employability plan. See Exhibit 6.
6. On September 16, 2014 the petitioner completed a FoodShare renewal and reported that her job at [REDACTED] ended in late August or early September.
7. On September 25, 2014 the agency received employment verification for petitioner from [REDACTED]. See Exhibit 7. The employer verified petitioner's last day of employment as July 11, 2014.
8. Petitioner failed to comply with her W-2 requirements by submitting completed job search logs or by maintaining employment. See Exhibits 8 and 12.
9. On December 18, 2014 the agency issued two notices of Child Care Overpayment for the period of July 11, 2014-October 31, 2014 in the amount of \$4562.85 for utilizing child care benefits when not in an approved activity due to an intentional program violation.

DISCUSSION

Wis. Stat., §49.195(3), provides as follows:

A county, tribal governing body, Wisconsin works agency or the department shall determine whether an overpayment has been made under s. 49.19, 49.148, 49.155 or 49.157 and, if so, the amount of the overpayment. The county, tribal governing body, Wisconsin works agency or department shall provide notice of the overpayment to the liable person. The department shall give that person an opportunity for a review following the procedure specified under s. 49.152, if the person received the overpayment under s. 49.141 to 49.161, and for a hearing under ch. 227. Notwithstanding s. 49.96, the department shall promptly recover all overpayments made under s. 49.19, 49.148, 49.155 or 49.157 that have not already been received under s. 49.161 or 49.19 (17) and shall promulgate rules establishing policies and procedures to administer this subsection. The rules shall include notification procedures similar to those established for child support collections...

Child care subsidies are authorized in Wis. Stat., §49.155, and thus they are within the parameters of §49.195(3).

A parent is eligible for child care services if she needs the care to attend a Wisconsin Works (W-2) approved school, to work, or to participate in W-2 activities. Wis. Stat., §49.155(1m); Wisconsin Shares Child Care Assistance (WSCCA) Manual, §1.1.1, available online at http://dcf.wisconsin.gov/childcare/wishares/pdf/chapter_1/chapter1.pdf. When a parent is ineligible for child care and receives the benefit anyway, the agency must determine whether an overpayment has been

made and, if so, the amount of the overpayment and take all reasonable steps necessary to recover the overpayment. Wis. Stat. §49.195(3); Wis. Admin. Code §DCF 101.23(2); See also, WSCCA Manual, Ch. 2.

Petitioner's argument at hearing was that she reported the end of her job to the agency in August and September. There is no corroborating evidence of this. To the contrary, we have her signed application noting the employment and the signed employability plan noting her requirement to work 25 hours per week. There is also no evidence to show that she met her agreed upon W-2 activities. Child care policy states that parents receiving Wisconsin Shares child care assistance must report any changes in circumstances that may affect their eligibility to the child care administrative agency within 10 days after the change. See WSCCA Manual, §§1.15.1 – 1.15.2. The overpayment was determined based on this failure to report and failure to participate in approved activities, and is a valid basis to set up the overpayment. Id. at §2.1.5.1.

I have reviewed the calculations and find no errors. Accordingly, I must uphold the county's overpayment determination.

CONCLUSIONS OF LAW

Petitioner was overpaid child care benefits because she received the benefits when she was not working, was not participating in approved W-2 activity, and failed to report her change in circumstances that affected her eligibility within 10 days of the change.

THEREFORE, it is

ORDERED

That the petition for review herein 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, Room G200, 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 27th day of April, 2015

\sKelly Cochrane
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 April 27, 2015.

Kenosha County Human Service Department
Public Assistance Collection Unit
Child Care Fraud