



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION ON REHEARING

CCB/163645

PRELIMINARY RECITALS

Pursuant to a petition filed January 30, 2015, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Sauk County Department of Human Services in regard to Child Care (CC), a hearing was scheduled for March 24, 2015. The petitioner did not appear, and the matter was dismissed. The petitioner then filed a rehearing request, which was granted. The hearing was then held on April 21, 2015, by telephone. The parties consented to this Judge's post-hearing review of Department-generated notices in the CWW database.

The issue for determination is whether the county agency authorized the correct number of CC hours from January 7, 2015, forward.

There appeared at that time 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: Susan Williamson, ES Spec.
Sauk County Department of Human Services
505 Broadway, 4th Floor
PO Box 29
Baraboo, WI 53913

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Sauk County.

2. The petitioner is an ongoing recipient of CC benefits. She has two children (DM, DP) who require care on weekdays while she works at an unsubsidized job. Prior to December 22, 2014, the petitioner worked at [REDACTED]; afterwards, she worked at [REDACTED]. She reported this job change on December 16, 2014.
3. On January 5, 2015, the agency issued a *CC Authorization Information* notice, declaring that the petitioner was authorized for **16** hours weekly for DP, and **18** hours weekly for DM through the end of February.
4. On January 7, 2015, the petitioner called the agency and reported that her hours at the new job had increased, and that she needed 22 hours weekly for DP and 25 hours weekly for DM. (DP goes to 4K classes, so he needs fewer hours). On January 8, 2015, the agency mailed a verification request letter to the petitioner at her correct address; the letter asks for proof of her new hours by January 16, 2015. Nothing was received by January 16.
5. On January 19, 2015, the agency mailed another *CC Authorization Information* notice, declaring that the petitioner continued to be authorized for 16 hours weekly for DP and 18 hours weekly for DM.
6. On January 19, 2015, the agency mailed another verification request letter to the petitioner; the letter asks for proof of her new hours by January 29, 2015. However, before that deadline expired, the petitioner called the agency on Monday, January 26, requesting a new verification form to capture her increased work hours. The agency issued another verification letter on January 27, 2015, asking for the same information, with a deadline of February 4, 2015.
7. On February 4, 2015, the agency received an hours verification form from the petitioner's employer. The form declares that she works 30-35 hours per week, with some hours being worked on the weekend.
8. On February 6, 2015, the agency issued a notice to the petitioner advising that she continued to be eligible to receive CC benefits; authorizations were not listed in the eligibility notice, per usual.
9. On February 16, 2015, the agency mailed another *CC Authorization Information* notice, declaring that the petitioner was authorized for **18** hours weekly for DP, and **22** hours weekly for DM. The authorization period is February 1 through September 5, 2015.
10. The agency's hearing summary letter says that it has now increased the authorization to 20 hours weekly for DP (16+4) and 20 hours weekly for DM (18+2). At hearing, the agency representative testified that, after receiving the February verification, the authorization was increased effective February 5, 2014, to 22 hours weekly for DP and 24 hours weekly for DM (*i.e.*, different numbers). The petitioner testified that she was unaware of this increase, and she is correct. She was not issued an authorization notice identifying approval for 22/24 hours weekly. The petitioner did not contest the correctness of a 22 hour authorization for DP, as long as it is backdated appropriately.

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, Wis. Admin. Code chs. DWD 12 and 56. The department has a *Child Day Care Manual (Manual)* that provides the specific policies for the program. (viewable at <http://dcf.wisconsin.gov/childcare/wishares/manual.htm>). The *Manual*, §§1.4.8 & 1.5.0, states that a recipient must be engaged in one of eight enumerated activities in order to be authorized for childcare benefits. There is no dispute that the petitioner was engaged in the qualifying activity of unsubsidized employment at all times relevant here.

The petitioner desires increased hours back to her request date of January 7, 2015. She was initially given a verification deadline of January 16, which she did not meet. Therefore, I will not be ordering increased benefits back to the January 7 reporting date. However, the petitioner again made contact with the agency on January 26, reporting the increased hours and requesting another verification form. She then supplied the verification by the second verification deadline of February 4. The state statute is not sufficiently detailed to provide direction for an authorization change such as the one presented in this case. The policy that pertains states as follows:

1.7.2 Required Verification Information

The eligibility determining agency must verify the level of income, approved activity participation, and all of items listed below for all parents in the Assistance Group...

1.7.3 Responsibility for Providing Verification

The Wisconsin Shares child care assistance applicant has the primary responsibility for providing verification and resolving questionable information.

1.7.4 Informing Applicant of Items Needed

The applicant must be informed in writing of the verification items that are needed along with a due date.

1.7.5 Applicant Time Limits

The applicant has seven (7) business days from the date the verification request is made to submit the needed verification to the Wisconsin Works or County/Tribal Human services agency.

If extenuating circumstances exist that make the verification requirements unduly burdensome, the Wisconsin Works or County/Tribal agencies may extend the verification due date ...

...

3.8.5 When Changes are Reported after Taking Effect

If the change in the authorization will result in an increased child care benefit, the current authorization must be ended back to the most previous Saturday and the new authorization must begin the Sunday just prior to the current date.

Manual, §§ 1.7.2 – 1.7.5, & 3.8.5. Because the change reported by the petitioner on Monday, January 26 resulted in an increased child care benefit (due to increased work hours), the policy directs the ending of the old authorization on “the most previous Saturday.” In this case, that would have been an ending date of Saturday, January 24. Per policy, the new authorization for 22/24 or other increased hours weekly should have begun on Sunday, January 25.

The agency did not adequately document in this hearing record why the petitioner is not authorized for 30 hours weekly for the oldest child. The petitioner’s somewhat variable schedule calls for her to work four weekdays, and some weekend time. Four weekdays is more than 24 hours. The petitioner’s verification identified her hours as 30-35 weekly, with some unknown portion occurring on weekends.

I will order the agency to take the necessary action to authorize and pay the incurred, unpaid, appropriate hours of CC at a level of 22 hours weekly for DP from January 25, 2015 through the present. I will also order the agency to authorized and pay the incurred, appropriate, and unpaid hours of CC at a level of 30 hours weekly for DM from January 25, 2015 the present. I note that policy directs that payment be made by the Department to the provider, not the parent.

CONCLUSIONS OF LAW

1. The county agency correctly declined to increase the petitioner's CC authorization for the January 7 through January 24, 2015, period.
2. The agency incorrectly failed to increase the petitioner's authorized CC hours to 22 hours weekly for DP effective January 25, 2015.
3. The agency incorrectly failed to increase the petitioner's authorized CC hours to 30 hours weekly for DM effective January 25, 2015.

NOW, THEREFORE, it is**ORDERED**

That the petition is remanded to the county agency with instructions to:

- (1) Take the necessary action to create authorization for the petitioner's daycare provider for 22 hours weekly for DP from January 25, 2015, onward, *and* cause payment to be made to the provider for the resulting increment of authorized, claimed, and unpaid hours for the period running from January 25, 2015 through the date of this Decision. This action shall be taken within **20** days of the date of this Decision.
- (2) Take the necessary action to create authorization for the petitioner's daycare provider for 30 hours weekly for DM from January 25, 2015, onward, *and* cause payment to be made to the provider for the resulting increment of authorized, claimed, and unpaid attendance-based hours for the period running from January 25, 2015 through the date of this Decision. This action shall be taken within **20** days of the date of this Decision.

In all other respects, the petition is dismissed.

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 Madison,
Wisconsin, this 23rd day of April, 2015

\sNancy J. Gagnon
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 April 23, 2015.

Sauk County Department of Human Services
Child Care Benefits