



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

CCB/163887

PRELIMINARY RECITALS

Pursuant to a petition filed February 11, 2015, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Kenosha County Human Service Department in regard to Child Care, a hearing was held on March 05, 2015, at Kenosha, Wisconsin.

The issue for determination is whether petitioner's appeal was timely filed. whether the Kenosha Human Service Department (the agency) correctly denied the Petitioner's request to backdate her benefits to November 1, 2014.

NOTE: The record was held open to give the agency an opportunity to supplement the record with a copy of a hearing summary, an application summary and a January 19, 2015 notice of decision. They have been marked as Exhibits eight, nine and ten respectively.

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
Madison, Wisconsin 53703

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

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Kenosha County.
2. On November 14, 2014, the Petitioner completed an ACCESS application for childcare benefits. (Testimony of Petitioner; Exhibit 2)
3. On November 21, 2014, the agency sent the Petitioner a Notice of Proof Needed requesting proof of residence and employment verification for the Petitioner and her spouse. Verification was due December 1, 2014. (Exhibit 3)
4. The agency did not receive the requested proof by the December 1, 2014 deadline. (Exhibit 2)
5. On December 2, 2014, the agency sent the Petitioner a notice, advising her that her application for benefits was denied, effective November 1, 2014, because she did not provide the requested proof. (Exhibit 4)
6. On December 2, 2014, the agency received a pay stub for the pay period ending November 26, 2014, but it could not be used, because information was blacked out. The Petitioner also submitted a bank statement dated October 13, 2014, to prove her residence, but that could not be used, because it was too old. (Exhibit 2)
7. On December 4, 2014, the Petitioner contacted the agency to ask why her application was denied. The agency explained why it could not use the verification she provided. (Exhibit 2)
8. On that same date, the Petitioner reported that her husband was not able to care for their children due to a medical condition. The agency reopened the Petitioner's application and pended it for further verification. (Exhibit 2)
9. On December 5, 2014, the agency sent the Petitioner a Notice of Proof Needed, requesting verification of the Petitioner's residence and of her husband's inability to care for their children. The requested verification was due December 15, 2015. (Exhibit 5)
10. On December 12, 2014, the Petitioner contacted the agency to see if they had received verification of her husband's inability to care for the children, because the doctor's office was supposed to have submitted it one week earlier. Petitioner was informed that the agency had not received it yet, so the Petitioner indicated she would have the doctor's office fax in the verification. (Exhibit 2)
11. The Petitioner faxed verification of her residence on December 11, 2014, but the agency did not receive it until December 15, 2014. The agency did not receive verification from the doctor by the December 15, 2014 deadline. (Exhibit 2)
12. On December 16, 2014, the agency sent the Petitioner a notice indicating that she was being denied child care effective December 1, 2014, because a caretaker is not completing approved child care activities. (Exhibit 6)
13. Petitioner's child care case was noted as closed on December 23, 2014. (Exhibit 2)
14. On January 15, 2014, the agency received verification that Petitioner's husband is unable to care for the children because of a seizure disorder. (Exhibit 7)
15. The Petitioner called on January 16, 2015, to see if the agency had received all of her verifications. At that time, the Petitioner also completed a FoodShare review; the agency completed a child care application to "align dates". The agency pended the Petitioner's case for verification. (Exhibit 2)
16. The Petitioner telephonically signed the application / renewal on January 16, 2015.¹ (Exhibit 9)

¹ Effective June 30, 2014, agencies are allowed to obtain telephonic signatures on applications for childcare benefits. This is per Ops Memo 14-29 Amendment.

17. On January 19, 2015, the agency sent the Petitioner a copy of an application summary. (Exhibit 9)
18. Also on January 19, 2015, the agency sent the Petitioner a notice advising her that she was eligible for childcare effective January 1, 2015. (Exhibit 10)
19. On January 30, 2015, the Petitioner contacted the agency to inquire about backdating her benefits and was told the agency could not do so. (Exhibit 2)
20. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on February 10, 2015. (Exhibit 1)

DISCUSSION

In the case at hand, the agency approved childcare benefits from January 1, 2015 forward. However, Petitioner asks that her child care benefits be backdated to November 2014.

This case is a bit complex, because the Petitioner submitted a signed application for child care benefits in November 2014. The agency closed the Petitioner's case in December 2014, because Petitioner had difficulty producing verification of her husband's inability to care for their children. When the Petitioner called again in January 2015 to inquire about her benefits, the agency processed a new application for her, since she was also calling to complete a FoodShare renewal.

"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; in this situation, eligibility may be backdated to the first of the month that the agency received a signed request for child care assistance..." *CCM §1.3.6* The filing date of the application is the date the agency receives the signed application. *CCM §1.3.1*

The Petitioner argues that the filing date is November 2014, when she first applied for benefits. It is the agency's contention that the filing date in question is the date in January 2015, when the agency processed a new child care application to "align" the child care request with the FoodShare application.

The Petitioner's application closed on December 16, 2014², when the agency sent her the notice that she was being denied childcare, because she did not provide proof that her husband was unable to care for their children.

"If a Wisconsin Shares child care assistance case is closed for a calendar month [30 days], the parent or person acting in the place of the parent must re-apply for child care assistance." *CCM §1.3.6.1*

The Petitioner did not call the agency until January 16, 2015, 31 days after her application closed. Because her application had been closed for a calendar month / 30 days, she was required to file a new application for child care benefits. The agency properly treated her call on January 16th as a new application and she telephonically signed the application.

² This decision will not review the issue of whether the agency correctly denied the Petitioner's November 2014 application for child care benefits on December 16, 2014. Per *Wisconsin Stat. § 49.152(1)*, *WI Admin Code §HA 3.05(3)*, an appeal of that issue needed to be filed within 45 days (by January 30, 2015). Petitioner's appeal was filed too late. However, the agency should note that if an applicant has made a reasonable effort and cannot obtain the requested 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..." *CCM §1.7.6* So, if the agency finds it appropriate, it might wish to review the matter, on its own accord.

Based upon the foregoing, it is found that the correct filing date is January 16, 2015 and that the agency correctly started the Petitioner's benefits on January 1, 2015.

CONCLUSIONS OF LAW

The agency correctly denied the Petitioner's request to backdate her child care benefits to November 1, 2014.

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.

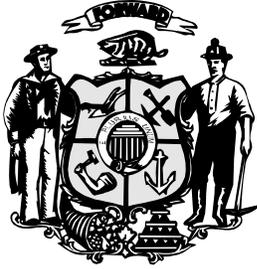
APPEAL TO COURT

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 March, 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 March 10, 2015.

Kenosha County Human Service Department
Child Care Benefits