



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

CCB/163991

PRELIMINARY RECITALS

Pursuant to a petition filed February 12, 2015, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Waukesha County Health and Human Services in regard to Child Care, a hearing was held on March 10, 2015, at Waukesha, Wisconsin.

The issue for determination is whether the agency properly determined the Petitioner is not eligible for child care benefits for November and December, 2014.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

Department of Children and Families
201 East Washington Avenue, Room G200
Madison, Wisconsin 53703

By: Kathy Jones

Waukesha County Health and Human Services
514 Riverview Avenue
Waukesha, WI 53188

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [redacted]) is a resident of Waukesha County.
2. On November 18, 2014, the Petitioner contacted the agency to request child care benefits.
3. On December 10, 2014, the Petitioner contacted the agency to report her husband's job had ended. Petitioner also reported that she was working at [redacted]

4. On December 11, 2014, the agency issued a Notice of Proof to the Petitioner requesting employment and income verification. The notice informed the Petitioner that the due date for the information was December 22, 2014.
5. On December 15, 2014, the agency issued a notice to the Petitioner of an appointment on December 18, 2014 for a phone interview to complete her enrollment for child care and foodshare benefits.
6. On December 18, 2014, a phone interview was completed. During the interview, the agency informed the Petitioner that because the interview was not done timely, the agency would determine eligibility for the weeks of October 27, 2014 – November 29, 2014 as long as the verification requested was received by the due date.
7. On December 19, 2014, the agency issued a summary of the Petitioner's request for benefits. The agency also issued a Notice of Proof Needed to the Petitioner requesting verification of residency, employment and income. The notice informed the Petitioner that the due date for the information was December 30, 2014 for child care benefits.
8. On December 22, 2014, the agency issued a Foodshare and/or Child Care Six Month Report Instructions to the Petitioner. The SMRF contained the following language: "To avoid a delay in your FoodShare and/or Child Care benefits, complete, sign and return this form by January 5, 2015." The report requested address information, job and income information and asked for documentation to support the answers provided.
9. On December 31, 2014, the agency issued a Notice of Eligibility Child Care informing the Petitioner that her request for child care benefits beginning November 1, 2014 was denied due to failure to provide requested verification by the due date.
10. On January 5, 2015, the agency received pay statements for the Petitioner and her husband.
11. On January 6, 2015, the Petitioner re-applied for child care benefits.
12. On January 12, 2015, the agency issued a Notice of Eligibility Child Care informing the Petitioner that she is eligible for child care benefits beginning January 1, 2015.
13. On February 12, 2015, the Petitioner filed an appeal with the Division of Hearings and Appeals.

### **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 statements. Rather, she was confused by the due dates. 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 the Petitioner's confusion about the due date for the information was reasonable given the numerous notices she received requesting the same information. The Petitioner did provide the documentation by the due date in the SMRF instructions. Therefore, I conclude that the agency should re-process the Petitioner's application and re-determine her eligibility for child care benefits for the period of October 27, 2014 – December 31, 2014.

### CONCLUSIONS OF LAW

The Petitioner submitted the verifications in a timely fashion and the agency should review and re-determine the Petitioner's eligibility for child care benefits for the period of October 27, 2014 – December 31, 2014 based on the information submitted by the Petitioner in January, 2015.

**THEREFORE, it is**

**ORDERED**

That this matter is remanded to the agency with instructions to review and re-determined the Petitioner's eligibility for child care benefits for the period of October 27, 2014 – December 31, 2014. The agency shall issue a new notice to the Petitioner with its determination. The agency shall complete these actions within 10 days of the date of this decision.

### **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 19th day of May, 2015

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\sDebra Bursinger  
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 May 19, 2015.

Waukesha County Health and Human Services  
Child Care Benefits