



FH

[REDACTED]

STATE OF WISCONSIN  
Division of Hearings and Appeals

In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

[REDACTED]

PRELIMINARY RECITALS

Pursuant to a petition filed July 09, 2015, 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 August 05, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether the agency erred in its determination of a \$2,462 CC overpayment.

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: [REDACTED]

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

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco  
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner is a resident of Milwaukee County.
2. [REDACTED] applied for CC benefits for her niece and nephew on 8/17/14. Following the application, the agency budgeted only [REDACTED] income to the household and found the household eligible for CC. At the time, [REDACTED] husband, [REDACTED], was also living in the home. [REDACTED]

was employed and had earned income that, if counted, would have made the household ineligible for CC.

3. Because [REDACTED] income was not counted, the household received CC benefits in the amount of \$2,462 from August 2014 to November 2014.
4. On June 17, 2015, the agency issued an overpayment notice to petitioner indicating an overpayment for the period from August 2014 to November 2014 in the amount of \$2,462.

### DISCUSSION

The applicable overpayment rule requires recovery of the overpayment, regardless of whether it was the fault of the client or the agency. Wis. Admin. Code §DCF 201.04(5)(a). See in accord, *Child Day Care Manual (Manual)*, §2.3.1. Thus, even if the overpayment was caused by agency error, the agency may still establish an overpayment claim against the petitioner. This policy is available online at <http://def.wisconsin.gov/childcare/wishares/manual.htm>. The Department determined an overpayment on the basis that petitioner's husband was living in the home and his income was not budgeted as household income. The agency asserts that if the husband had been reported in the home, and if his income were budgeted, the household would not have been eligible for the CC benefits as the income exceeded the income limit.

At the time of hearing, the agency presented credible evidence that [REDACTED] lived in the home but that [REDACTED] income was not budgeted in the determination of CC eligibility. The agency also demonstrated that the benefits were received by the household.

The only argument presented by petitioner was that any error was not petitioner's fault and that there was an agency error that led to the overpayment. Petitioner argued that she was misled by the agency when she was told by the agency that her husband's income information did not matter in the determination of CC eligibility since she was also getting kinship care. [REDACTED] argued that her only issue is that "they should have had me submit his information instead of saying 'it's OK...you don't have to bring it.'"

As stated above, the only issue in a CC overpayment is whether benefits were received in excess of what a person was entitled to receive. It does not matter whether the fault is the petitioner's or the agency's. See Child Care Policy Manual at § 3.5.2 ("All overpayments made to a client, whether due to client error, administrative error, or fraud, **must** be formally established to be repaid by the client.").

### CONCLUSIONS OF LAW

The agency did not err in its determination of the overpayment in the amount of \$2,462.

**THEREFORE, it is**

**ORDERED**

That this appeal 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 Madison,  
Wisconsin, this 21st day of October, 2015

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\sJohn P. Tedesco  
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 October 21, 2015.

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