



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

CCB/169481

PRELIMINARY RECITALS

Pursuant to a petition filed October 16, 2015, under Wis. Admin. Code §HA 3.03(4), to review a decision by the St. Croix County Health & Human Services in regard to Child Care, a hearing was held on November 18, 2015, at New Richmond, Wisconsin.

The issue for determination is whether the county agency correctly denied Child Care to the petitioner because he is not in an approved activity.

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: [Redacted]
St. Croix County Health & Human Services
1752 Dorset Lane
New Richmond, WI 54017-1063

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. The petitioner (CARES # [Redacted]) is a resident of St. Croix County.
2. The petitioner is a University of Minnesota law student.
3. The petitioner has primary placement of a young child.

4. As part of the petitioner's law school program, he is participating in an unpaid misdemeanor prosecution clinic 150 hours a semester.
5. The petitioner does not work for wages or participate in any W-2 work programs.
6. The county agency denied the petitioner's request for Child Care benefits because he is not participating in an approved activity.

DISCUSSION

The petitioner is a University of Minnesota law student whose recent dalliance led to a child. The mother apparently is incapable of caring for the child, while the petitioner, because of his studies, lacks the time and money to do so adequately. He seeks Child Care Benefits, which are provided to W-2 participants who are in an approved activity. Wis. Stat. § 49.155(1m)(a). He is participating 150 hours per semester in an unpaid misdemeanor prosecution clinic. The county agency denied his request because it contends that this is not an approved activity.

The statute providing authority for Child Care lists specific approved activities at Wis. Stat. § 49.155(1m)(a):

1. Meet the school attendance requirement under s. [49.26 \(1\) \(ge\)](#).
 - 1m. Obtain a high school diploma or participate in a course of study meeting the standards established by the state superintendent of public instruction for the granting of a declaration of equivalency of high school graduation, if the individual is not subject to the school attendance requirement under s. [49.26 \(1\) \(ge\)](#) and at least one of the following conditions is met:
 - a. The individual is 18 or 19 years of age.
 - b. The individual has not yet attained the age of 18 years and the individual resides with his or her custodial parent or with a kinship care relative under s. [48.57 \(3m\)](#) or with a long-term kinship care relative under s. [48.57 \(3n\)](#) or is in a foster home licensed under s. [48.62](#), a subsidized guardianship home under s. [48.623](#), a group home, or an independent living arrangement supervised by an adult.
2. Work in an unsubsidized job, including training provided by an employer during the regular hours of employment.
3. Work in a Wisconsin works employment position, including participation in job search, orientation and training activities under s. [49.147 \(2\) \(a\)](#) and in education or training activities under s. [49.147 \(3\) \(am\)](#), [\(4\) \(am\)](#) or [\(5\) \(bm\)](#).
 - 3m. Participate in a job search or work experience component of the food stamp employment and training program under s. [49.79 \(9\)](#).
 - 3r. Participate in the Transform Milwaukee Jobs program, or the Transitional Jobs program, under s. [49.163](#).
4. Participate in basic education, including an English as a 2nd language course; literacy tutoring; or a course of study meeting the standards established by the state superintendent of public instruction under s. [115.29 \(4\)](#) for the granting of a declaration of equivalency of high school graduation, if the department or the county department or agency determining eligibility determines that basic education would facilitate the individual's efforts to maintain employment. An individual may receive aid under this subdivision for up to 2 years.
5. Participate in a course of study at a technical college, or participate in educational courses that provide an employment skill, as determined by the department, if the department or the county department or agency determining eligibility determines that the course or courses would facilitate the individual's efforts to maintain employment. An individual may receive aid under this subdivision for up to 2 years.

The statute allows benefits for those in high school, technical college, or some other approved basic education program. Going to law school certainly improves the petitioner's employment opportunities, but the department does not consider law school or any other graduate program an approved activity. *See Child Care Manual*, § 1.4.8. The law also allows benefits to those in certain types of work. While the clinic the petitioner participates in may be similar to employment, it is not unsubsidized employment or a W-2 employment position. Nor is it one of the forms of training allowed by this section. Administrative law judges have only those powers expressly granted by law. Because nothing in the Child Care statute grants me the power to allow benefits for those in law school or a law school's unpaid clinical program, I must uphold the county agency's denial.

CONCLUSIONS OF LAW

The county agency correctly denied Child Care benefits to the petitioner because neither his course of study nor his unpaid clinical activity is an approved activity.

THEREFORE, it is **ORDERED**

The petitioner's 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 4th day of December, 2015

\sMichael D. O'Brien
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 December 4, 2015.

St. Croix County Health & Human Services
Child Care Benefits