



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

CCB/172693

PRELIMINARY RECITALS

Pursuant to a petition filed March 06, 2016, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Eau Claire County Department of Human Services in regard to Child Care (CC), a hearing was held on April 19, 2016, at Eau Claire, Wisconsin.

The issue for determination is whether the petitioner is entitled to additional child care payments if she did not appeal within 45 days of the date of the child care notices and she presented no evidence indicating how much she was underpaid.

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]

Eau Claire County Department of Human Services
721 Oxford Avenue
PO Box 840
Eau Claire, WI 54702-0840

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. The petitioner (CARES # [Redacted]) is a resident of Eau Claire County.

2. The petitioner requests an unspecified amount of additional child care payments between August 28, 2015, and February 12, 2016.
3. The petitioner received regular notices indicating how much child care she was entitled to. The last of these notices covering the period the petitioner disputes, August 28, 2015, through February 12, 2016, was sent to her on December 21, 2015. She did not appeal any of these determinations until March 6, 2016.
4. The petitioner provided no evidence supporting her claim that she did not receive all of the child care benefits she was entitled to.

DISCUSSION

Child Care Benefits subsidize child care costs for W-2 participants who are working in unsubsidized employment or various approved programs. Wis. Stat. § 49.155(1m)(a). The petitioner contends that she was underpaid benefits from August 28, 2015, through February 12, 2016. When I asked her, "What wasn't paid?" she replied, "The fair amount." I pointed out that I needed something more precise than this, but she could not provide anything. I understand that she is not a lawyer, but she has the burden of proving that she is owed some additional amount. Basically, what she did was state that she is unhappy and that the county agency and I should determine exactly why she is unhappy. The agency did submit a stack of benefit notices, case notes, and attendance sheets, but these do not point to any obvious error. Based upon this, I find that the petitioner has not met her burden of proof.

Moreover, recipients have 45 days from the date of an adverse action to appeal unfavorable decisions. Wis. Admin. Code § HA 3.05(3). The authorization for the period covering December 20, 2015, through February 13, 2015, was mailed to the petitioner along with her appeal rights on December 21, 2015. All other authorizations were mailed before then. She filed her only appeal on March 6, 2016, which is 76 days after the last negative action took place. When an appeal is late, the Division of Hearings and Appeals has no authority to consider it. Therefore, I must also dismiss her appeal because it is late.

CONCLUSIONS OF LAW

1. The petitioner has not proved by the preponderance of the evidence that she did not receive all of the child care she was awarded.
2. The petitioner's appeal is late.

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 1st day of June, 2016

\s\s\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 June 1, 2016.

Eau Claire County Department of Human Services
Child Care Benefits