



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION
Case #: CCB - 175259

PRELIMINARY RECITALS

Pursuant to a petition filed on June 29, 2016, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Barron County Department of Human Services regarding Child Care (CC), a hearing was held on July 13, 2016, by telephone.

The issue for determination is whether the department correctly denied CC to the petitioner because her only employment is as an unlicensed daycare provider.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By:

Barron County Department of Human Services
Courthouse Room 338
335 E Monroe Ave
Barron, WI 54812

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES #) is a resident of Barron County.

2. The county agency denied the petitioner's request for Child Care Benefits for her two foster children. This is not the petitioner's first foster care placement.
3. The petitioner operates an unlicensed daycare center.

DISCUSSION

Child Care Benefits are provided to W-2 participants who are working in unsubsidized employment or who are involved in other approved activities. Wis. Stat. § 49.155(1m)(a)2. The petitioner seeks Child Care Benefits for her two foster children. She runs an unlicensed daycare center but cannot place the children there because foster children must be placed in a licensed daycare center. Nor does her daycare qualify as unsubsidized employment that would qualify her for a Child Care subsidy. This is because Wisconsin policy specifically prohibits it: "Self-employment as an unregulated child care provider is not allowable as an approved activity for Wisconsin Shares Child Care Subsidy eligibility." *Child Care Manual*, § 1.4.8.3. I am aware that the petitioner was told that she would be eligible for the program, but I have no equitable powers that would allow me to consider the fairness of the situation and ignore clearly written laws and policies. Therefore, I must uphold the agency's denial.

CONCLUSIONS OF LAW

The petitioner is ineligible for Child Care Benefits because she is not participating in 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, **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 5th day of August, 2016

\s _____
Michael 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 August 5, 2016.

Barron County Department of Human Services
Child Care Benefits