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STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: FOS - 175510

PRELIMINARY RECITALS

Pursuant to a petition filed on July 12, 2016, under Wis. Stat. § 48.64(4), and Wis. Admin. Code § DCF 56.10(1), to review a decision by the Social Worker Supervisor regarding Foster Care, a hearing was held on August 24, 2016, by telephone.

The issue for determination is whether this appeal is timely.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

;

Respondent:

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

By: [REDACTED]
Social Worker Supervisor
Kenosha, WI

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES #) is a resident of Rock County.
2. Petitioner applied for a foster home license.

3. The license was denied and notice dated June 22, 2016 was sent from Community Impact Programs notifying petitioner of the denial. The notice stated that an appeal needed to be filed within 15 days of the date of the notice.
4. Petitioner filed a request for hearing dated July 12, 2016 by mail which was postmarked on that same date.
5. The request for hearing was received at the Division of hearings and Appeals on July 14, 2016.

DISCUSSION

An appeal of a foster home license denial must be filed within 15 days of the notice of denial:

(2) REQUEST FOR A HEARING.** A request for a hearing shall be in writing and shall be addressed to the department of administration's division of hearings and appeals. The date of the request for a hearing shall be the date on which the request is received by that office. Any request for a hearing **shall be received no more than 15 days after the date of the notice of the agency decision to deny, revoke, or not renew the license.

Note: The request for a hearing should be sent to the Division of Hearings and Appeals, P.O. Box 7875, Madison, Wisconsin 53707 or delivered to the Division at 5005 University Avenue, Suite 201, Madison, WI 53705-5400

Wis. Admin. Code Chapter DCF § 56.10(2).

In this case, the request was received on July 14, 2016. Even if I consider the date of the request as the filing date this would be when it was placed in the mail and postmarked on July 12, 2016. Wis. Admin. Code. Chapter HA § 3.05(3)(c). The fifteenth day after the date of the notice was July 7, 2016. The request was dropped in the mail five days past the deadline. Petitioner stated that she would send to this ALJ a recording which would demonstrate that she was informed by county workers to disregard the appeal deadline and that filing her appeal late would be acceptable. This ALJ later received a voicemail in which petitioner stated she would not be able to produce the recording as planned. No recording was ever received. Petitioner also conceded that she received the notice on July 1, 2016. This would have allowed a remaining six days, four of which were weekdays, in which to file a timely request for hearing. The request in this case was not timely and I lack jurisdiction to hear the case.

CONCLUSIONS OF LAW

The hearing request was not timely.

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, **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, 2016

\s _____
John P. Tedesco
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin \DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
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The preceding decision was sent to the following parties on October 21, 2016.

Foster Care

[REDACTED]
[REDACTED]