



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION
Case #: CCB - 175582

PRELIMINARY RECITALS

Pursuant to a petition filed on July 18, 2016, under Wis. Admin. Code §HA 3.03(4), to review a decision by the Marathon County Department of Social Services regarding Child Care (CC), a hearing was held on September 6, 2016, by telephone.

The issue for determination is whether the department correctly determined that the petitioner’s income renders him financially ineligible for Child Care Benefits.

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:

Marathon County Department of Social Services
400 E. Thomas Street
Wausau, WI 54403

ADMINISTRATIVE LAW JUDGE:

Teresa A. Perez
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES #) is a resident of Marathon County.
2. There are two individuals in the petitioner’s household.

3. Petitioner is employed full-time, works 40 hours per week, earns \$14.66 per hour, and is paid every other Friday.
4. On July 5, 2016, petitioner applied for Child Care Benefits.
5. On July 12, 2016, petitioner underwent an interview with the county agency and presented three paystubs which showed his earnings for May 22 to June 4, 2016; June 5 – June 18, 2016; and June 19 – July 2, 2016 respectively. He earned \$1,172.80 in gross pay during each of those two-week time periods.
6. Based on the paystubs the petitioner presented, the county calculated his gross household income to be \$2,521.52 / month.
7. On July 14, 2016, the department issued a Notice of Eligibility to the petitioner informing him that his application for Child Care Benefits had been denied as of July 1, 2016 because his income exceeded the program's income eligibility limit.
8. On July 18, 2016, the petitioner filed an appeal with the Division of Hearings & Appeals.

DISCUSSION

Wis. Stat. § 49.155 both authorizes the department to operate a child care subsidy program and sets forth eligibility criteria that parents must satisfy to receive a child care subsidy. To be found *financially* eligible, the relevant statutes provide that an applicant's gross household income must not exceed 185% of the federal poverty level (FPL) for the applicable household size. See, Wis. Stat § 49.155(1m)(c); *Wisconsin Shares Child Care Subsidy Policy Manual* §1.5.1.1. Because petitioner's household consists of two members, his gross household income must fall below 185% FPL (i.e., \$2,470 per month) to be found eligible for a child care subsidy.

The department's policy manual provides the following instructions regarding how agencies must calculate monthly income:

. . . [M]onthly income is budgeted prospectively by making the best estimate of income based upon the information available. When converting income to monthly income:

- Weekly income is multiplied by 4.3 to get a monthly income amount.
- *Bi-weekly income is multiplied by 2.15 to get a monthly income amount.*
 - *Paid every other week (for example every other Thursday with 26 paychecks a year).* [Emphasis added].
- Semi-monthly income is multiplied by 2 to get the monthly income amount.
 - Paid twice a month (for example on the 1st and 15th of the month with 24 paychecks a year).

Wisconsin Shares Child Care Subsidy Policy Manual §1.5.5.

The critical facts in this case are not disputed: Petitioner's household income consists entirely of wages he earns from a full time job; his hourly rate of pay is \$14.66 per hour; he works 40 hours per week; and he is paid every other Friday. Consistent with the policy quoted above, the county agency used the multiplier of 2.15 and calculated petitioner's monthly gross income to be \$2,521.52 (i.e., \$1,172.80 gross biweekly income x 2.15 = \$2521.52). The petitioner has not pointed to any error in the county's

calculation. Rather, he argued that the county should multiply his biweekly income by 2 instead of 2.15 and that doing so would reflect his “actual income”. Petitioner’s argument would be persuasive if his employer only issued 24 paychecks to him during the year. That is not the case though. Petitioner is paid every other Friday and, based on that pay schedule, he will receive at least 26 paychecks in a twelve month calendar period.

The county’s calculation was reviewed and found to be accurate. Petitioner’s monthly gross household income of \$2,521.52 exceeds 185% FPL for a household of two (i.e., \$2,470 per month). He is thus not currently financially eligible for a child care subsidy.

If the petitioner’s income is reduced in the future, he may re-apply and verify his reduced income at that time. Nothing in this decision prevents such re-application.

CONCLUSIONS OF LAW

The petitioner’s gross household income exceeds the applicable program limit and he is therefore not financially eligible for Child Care Benefits.

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 8th day of September, 2016

\s _____
Teresa A. Perez
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 September 8, 2016.

Marathon County Department of Social Services
Child Care Benefits