



**STATE OF WISCONSIN**  
**Division of Hearings and Appeals**

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In the Matter of

Sharon's Care Center

DECISION

ML-08-0150

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**PRELIMINARY RECITALS**

Pursuant to a petition filed May 9, 2008, under Wis Stat. § 227.44, to review a decision by the Portage County Dept. of Human Services in regard to Provider Child Care Benefits, a prehearing conference was held on November 10, 2008 between the petitioner and Portage county worker, Patti Smith. Based upon that prehearing, the record was held open for the submission of written arguments and exhibits to the Division of Hearings and Appeals (DHA). Those submissions were received at DHA and are received into the record.

The issue for determination is whether the county agency correctly denied petitioner's request for payment of child care provider benefits during the limited period of period of April 13, 2008 through April 19, 2008 while petitioner was on vacation.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

Sharon A. Mras  
Sharon's Care Center  
1600 East Avenue  
Stevens Point, WI 54481-3706

Representative:

None

Respondent:

Wisconsin Department of Children and Families

By: David Pagel, supervisor

Portage County Health & Human Services  
817 Whiting Avenue  
Stevens Point, WI 54481

ADMINISTRATIVE LAW JUDGE:

Gary M. Wolkstein  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner, Sharon A. Mras, is the owner of Sharon's Care Center.
2. The county agency sent January 21, 2008 and March 31, 2008 notices to the petitioner confirming child care authorizations for the children in her care, and that her county payments were based upon the attendance of each child at her child care center.
3. At her child care center, petitioner has children who are both paid by private clients and children paid by Portage County Health and Human Services.
4. The petitioner took vacation time during the period of April 13, 2008 to April 19, 2008, and to celebrate her 60<sup>th</sup> birthday.
5. The county agency sent an April 29, 2008 notice to the petitioner confirming that the county would not be paying child care to the petitioner for two county pay children (KM and NM) during the April 14-19, 2008 period, when those two children were not attending Sharon's Care Center.
6. The petitioner filed a May 9, 2008 appeal with the Division of Hearings and Appeals regarding provider non-payment of child care benefits during the period of April 13-19, 2008 for the two children, KM and NM.

**DISCUSSION**

During the November 10, 2008 prehearing conference and in the county's submissions after the prehearing, Portage county worker, Patti Smith, established that the county agency correctly denied the petitioner's request for child care payment during the period of April 13-19, 2008. Ms. Smith clearly established that petitioner's child care provider payments were based upon "attendance" and not "enrollment." As a result, if the child did not attend, then petitioner was not entitled to county payment for that child.

The petitioner admitted during the prehearing that she was on vacation during the period of April 13, 2008 to April 19, 2008, and was celebrating her 60<sup>th</sup> birthday. She explained that she felt after 25 years of child care she deserved county payment for her one week of vacation. However, when questioned by this administrative law judge (ALJ), she admitted that she had no legal or policy authority for the county owing payment to her when she was on vacation. Ms. Mras argued that it was not fair that she was not paid while on vacation because her private pay clients did pay her during vacation periods. However, petitioner had a legal contract with her private pay clients which confirmed the payment arrangement including vacation pay. No such contract was made with the county agency for payment while petitioner was on vacation.

Furthermore, Ms. Smith referred to a relevant attendance statement signed by petitioner on April 21, 2008 acknowledging that her child care payments were attendance based. Moreover, the county representative correctly stated that only "enrollment based" child care providers are entitled to any paid vacation pursuant to Operations Memo No. 07-28, dated June 21, 2007. The petitioner was unable to refute the county's testimony or evidence. Accordingly, based upon the above, the county agency correctly denied petitioner's request for payment of child care benefits during the limited period of period of April 13, 2008 through April 19, 2008 while petitioner was on vacation and not providing child care.

**CONCLUSIONS OF LAW**

The county agency correctly denied petitioner's request for payment of child care benefits during the limited period of period of April 13, 2008 through April 19, 2008 while petitioner was on vacation.

**NOW, THEREFORE, it is ORDERED**

The petition for review herein be and the same is hereby Dismissed.

**REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wisconsin Statutes § 227.49. A copy of the statutes can be found 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 no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to Circuit Court, the Respondent in this matter is the Wisconsin Department of Children and Families. Appeals must be served on the Office of the Secretary of that Department, either personally or by certified mail. The address of the Department is: Office of the Secretary, 201 East Washington Avenue, Room 400X, P.O. Box 7946, Madison, WI 53707-7946.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wisconsin Statutes §§ 227.52 and 227.53.

Given under my hand at the City of  
Madison, Wisconsin, this \_\_\_\_\_ day of  
June, 2010.

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Gary M. Wolkstein  
Administrative Law Judge  
Division of Hearings and Appeals  
910/GMW

cc: