



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

CTI/170291

PRELIMINARY RECITALS

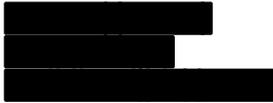
Pursuant to a petition filed November 20, 2015, under Wis. Stat. § 49.85(4), and Wis. Admin. Code §§ HA 3.03(1), (4), to review a decision by the Kenosha County Human Service Department in regard to Child Care, a hearing was held on December 15, 2015, at Racine, Wisconsin.

The issue for determination is whether the Petitioner's appeal is timely and, if so, whether the agency properly issued a tax intercept notice to the Petitioner.

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: Karen Mayer

Kenosha County Human Service Department
8600 Sheridan Road
Kenosha, WI 53143

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [redacted]) is a resident of Racine County.
2. On April 16, 2015, the agency issued Child Care Overpayment Notice and worksheets to the Petitioner on [redacted] informing her that the agency intends to recover an overissuance of child care benefits in the amount of \$2,468.61 for the period of July 27, 2014 -

November 30, 2014 based on Petitioner's utilization of child care while at least one parent was not in an approved activity. The notice also advised the Petitioner of the right to request a hearing by filing an appeal with the Division of Hearings and Appeals by June 1, 2015.

3. On June 2, 2015 and July 2, 2015, the agency issued dunning notices to the Petitioner at [REDACTED] [REDACTED]. On August 4, 2015, the agency issued a dunning notice to the Petitioner at [REDACTED] in Kenosha.
4. On September 11, 2015, the agency issued a notice of state tax intercept to the Petitioner at her address on [REDACTED] in Kenosha informing her that the agency may intercept state taxes as a result of her unpaid public assistance debt. The notice also informed her of the right to a hearing by filing an appeal with the Division of Hearings and Appeals within 30 days of the date of the notice.
5. On November 20, 2015, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

A hearing officer can only rule on the merits of a case if there is jurisdiction to do so. There is no jurisdiction if a hearing request is untimely. An appeal of a negative action concerning child care benefits must be filed within 45 days of the date of that action. Wisconsin Shares Child Care Manual, § 3.5.3. An appeal of a tax intercept action must be filed within 30 days of the date of the notice. Wis. Stat., § 49.85.

At the hearing in this case, the Petitioner testified that she disagrees with the basis for the overpayment. Specifically, she contends that she never lived with [REDACTED]. She also stated that she did not receive all notices issued by the agency. However, she concedes that she received some notices and that she made some payments on the overpayment. She further testified that she did not request a hearing to contest the underlying overpayment but she does not want her taxes to be intercepted.

A review of the Petitioner's case file and the addresses to which the Petitioner's notices were sent by the agency revealed that the agency properly mailed the Petitioner's notice of overpayment, dunning notices and state tax intercept to the address of record for the Petitioner at the time of mailing. The Petitioner's appeal in November, 2015 is untimely as to the overpayment and for the state tax intercept. Therefore, DHA has no jurisdiction over this matter and cannot rule on the merits of any of the issues.

CONCLUSIONS OF LAW

The Petitioner's appeal is untimely.

THEREFORE, it is

ORDERED

That 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.

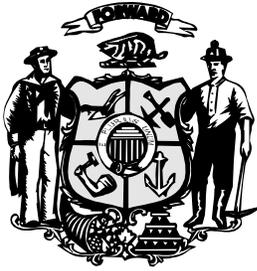
APPEAL TO COURT

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 Milwaukee,
Wisconsin, this 15th day of March, 2016

\sDebra Bursinger
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
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on March 15, 2016.

Kenosha County Human Service Department
Public Assistance Collection Unit