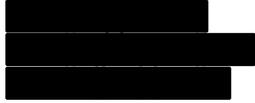




STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

LNO/172987

PRELIMINARY RECITALS

Pursuant to a petition filed March 22, 2016, under Wis. Admin. Code § DCF 201.07(1)(e), to review a decision by the Wisconsin Works (W-2) in regard to Other, a hearing was held on April 13, 2016, at Racine, Wisconsin.

The issue for determination is whether the agency correctly issued a levy to collect an unpaid public assistance debt.

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

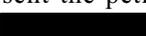
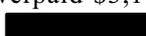
By: 
Wisconsin Works (W-2)

, WI

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # ) is a resident of Racine County.
2. In February 2015 the agency sent the petitioner notices that he was overpaid \$3,170.25 in W-2 benefits under claim number , \$7.25 under claim number , and \$24.50 under claim number . The petitioner received these notices, but did not appeal

because he did not believe that the notices, addressed to him, applied to him as he was not the primary person on these cases.

3. The agency sent the petitioner a Repayment agreement on March 3, 2015.
4. The agency sent the petitioner dunning notices reminding him of these debts on April 2, 2015, May 4, 2015, and June 2, 2015.
5. The petitioner has not made any payments on these public assistance debts.
6. On March 17, 2016 the agency sent the petitioner a notice stating that they were issuing a levy against his wages under the control of [REDACTED] at [REDACTED] for these unpaid public assistance debts.
7. On March 22, 2016 the Division of Hearings and Appeals received the petitioner's Request for Hearing.

DISCUSSION

If a person fails to repay a public benefits overpayment, the Department may issue a warrant with the county clerk of court that will impose a lien on property owned by the debtor under Wis. Stat., §49.195(3m) or a levy on income under Wis. Stat., §49.195(3n). The Wisconsin Administrative Code, §DCF 101.23(9) allows the Department to issue such a levy if repayment of a debt is delinquent. The person may appeal the levy to the Division of Hearings and Appeals, but the only issues that the administrative law judge may review are whether the debt is repaid in full or whether there is mistaken identity. Wis. Adm. Code, §DCF 101.23(9)(a)5.

The petitioner does not argue that the debt is paid in full or that there is mistaken identity. Rather the petitioner disputes the underlying public assistance debts. He argues that he was in the home with the primary person on the case. He was the second parent listed on the case. He believes that it was the primary person's responsibility to report all the case information and to follow through with the agency. The petitioner admits that he received the overpayment notices in February 2015. He did not appeal at that time because he did not believe that those notices applied to him. The notices were addressed specifically to him. The time to dispute the debt was when he received notices that he owed the debt in February 2015. He is now beyond the statutory time limit in which to dispute this debt. I note that the defense that the petitioner now presents would not have been a persuasive legal defense even if he had appealed in February 2015. With respect to this case, the agency followed the proper steps in issuing the levy, and thus I must conclude that the agency's actions are correct.

CONCLUSIONS OF LAW

The agency correctly issued a levy to collect an unpaid public assistance debt.

THEREFORE, it is

ORDERED

That the petition 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 2nd day of June, 2016

\sCorinne Balter
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on June 2, 2016.

Wisconsin Works (W-2)
Public Assistance Collection Unit