



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

Case #: LNO - 173034

PRELIMINARY RECITALS

On March 21, 2016, the above petitioner filed a hearing request under Wis. Admin. Code § DCF 201.07(1)(e), to challenge a decision by the Wisconsin Works (W-2) regarding W2. The hearing was held on April 20, 2016, at Milwaukee, Wisconsin. The record was held open 14 days post-hearing for the Petitioner and the agency to submit additional evidence. No evidence was received from the Petitioner. The agency submitted additional evidence on April 22, 2016. The record was closed on May 4, 2016.

The issue for determination is whether the agency properly docketed a warrant against the Petitioner regarding 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, WI53703

By: [Redacted]
Wisconsin Works (W-2)
, WI

ADMINISTRATIVE LAW JUDGE:
Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [Redacted]) is a resident of Mississippi.

2. On August 2, 2002, the agency issued a W-2 Overpayment Notice and Worksheets to the Petitioner on [REDACTED] Milwaukee informing her that the agency intended to recover overissuances of W-2 benefits in the amount of \$4,497 for the period of January 15, 2002 – July 31, 2002 and \$3,768 for the period of June 1, 2001 – December 31, 2001 for failure to accurately report household members. The notice also informed the Petitioner of the right to request a fact finding review within 45 days of the date of the notice.
3. On August 6, 2002, a W-2 worker met with the Petitioner to discuss the overpayment claim.
4. Petitioner did not request a fact finding review of the W-2 overpayment. Dunning notices were issued to the Petitioner in 2002 and 2003 to her last known addresses.
5. From 2006 – 2012, the agency issued tax intercept notices to the Petitioner at various last known addresses. The agency intercepted the Petitioner's taxes on June 27, 2006, March 31, 2009, May 4, 2010, January 24, 2012. A total of \$1,640.97 was intercepted and applied to the Petitioner's outstanding debt. Notices were also sent to the Petitioner after each tax intercept advising her of the amount of the tax intercept and the remaining balance on her unpaid public assistance debt.
6. From 2002 - September, 2010, the Petitioner had open benefits cases in Milwaukee County and reported various changes in address.
7. In September, 2010, the agency noted that the Petitioner had been using her Wis. FS card in Vaiden, MS. Petitioner reported to the agency in October that she is staying in Mississippi for 4 months. She later reported moving to Mississippi.
8. Petitioner has remaining balances of \$2,660.03 and \$3,768 on her W-2 overpayment claims.
9. On March 16, 2016, the agency issued a Notice of Warrant Docketed to the Petitioner at [REDACTED] Vaiden, MS. It informed her that a warrant was docketed for the collection of a delinquent AFDC, Child care and/or W-2 debt. It also advised her that she could appeal by requesting a hearing within 20 days of the date of the notice.
10. On March 24, 2016, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

A hearing concerning the docketing of a warrant is limited to questions of prior payment of the debt and mistaken identity of the debtor. Wis. Admin. Code § DCF 101.23(9)(a)5; See also, Wis. Stat. § 49.195(3s).

In this case, the Petitioner did not dispute that the agency collected prior payments through tax intercepts. She did not assert that there has been mistaken identity. She testified that she never received the tax intercept notices from the agency because she had moved from Wisconsin in 2009. The evidence demonstrates that the Petitioner did not report moving out of Wisconsin in 2009 or any time before that. She did report moving to Mississippi in or about October, 2010. The tax intercept notices were issued to the Petitioner at various times from 2006 – 2012 to her Wisconsin addresses and then to her Mississippi address after October, 2010. The Petitioner had open benefits cases in Wisconsin when the notices were mailed to her Wisconsin addresses. The Petitioner had no evidence to demonstrate that these notices were not properly issued to her current addresses at the time.

Despite being aware of the overpayment in 2002 and having her taxes intercepted numerous times between 2006 – 2012, the Petitioner never filed any appeal. Therefore, I find her appeal with regard to the overpayment claim from 2002 and the tax intercept actions between 2006 – 2012 are untimely. I conclude that with regard to the warrant docketed, there is no issue regarding prior payments and no issue

of mistaken identity. The agency properly docketed a warrant against the Petitioner for unpaid public assistance debts.

CONCLUSIONS OF LAW

The agency properly docketed a warrant against the Petitioner for unpaid public assistance debts.

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, **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 19th day of July, 2016

\s _____
Debra Bursinger
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 July 19, 2016.

Wisconsin Works (W-2)
Public Assistance Collection Unit