



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]

DECISION

PTI/141015

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**PRELIMINARY RECITALS**

Pursuant to a petition filed May 16, 2012, under Wis. Stat. § 227.42, Wis. Admin. Code § DCF 201.07(1) and Wis. Stat. § 49.85(4), to review a decision by the Eau Claire County Department of Human Services in regard to a tax intercept filed to recover an overpayment of Wisconsin Shares benefits, a hearing was held on October 9, 2012, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly filed a tax intercept notice as a means of recovering an overpayment of Wisconsin Shares benefits.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]

Respondent:

Department of Children and Families  
201 East Washington Avenue  
Madison, Wisconsin 53703

By: Aaron Borreson, Fraud Investigator, Eau Claire County  
Carla Sumner, Retired Investigator  
Eau Claire County Department of Human Services  
721 Oxford Avenue  
PO Box 840  
Eau Claire, WI 54702-0840

**ADMINISTRATIVE LAW JUDGE:**

Michael A. Greene  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.

2. Petitioner previously operated a child care center in Eau Claire, Wisconsin. On October 6, 2008, the agency sent petitioner a series of notices to the effect that it was adjusting the payments made to the child care center under the Wisconsin Shares program in order to recover overpayments which occurred due to inaccurate reporting of attendance (Exhibit 1). Petitioner appealed the notice but did not appear at the hearing.
3. On October 4, 2011, the agency sent petitioner a repayment agreement covering the overpayment balance of \$118,582.05 (Exhibit 2). Dunning notices were also sent on November 2, 2011, (Exhibit 3), December 2, 2011 (Exhibit 4) and January 3, 2012 (Exhibit 5).
4. On May 11, 2012, the Department of Children and Families sent petitioner a notice to the effect that any refunds or credits owed her by the Wisconsin Department of Revenue would be intercepted and applied against the Wisconsin Shares overpayment (Exhibit 6).

### DISCUSSION

Wisconsin Works (W-2) is a collection of programs that is intended to assist lower-income individuals in finding and maintaining unsubsidized employment. Among the programs is the Wisconsin Shares program, Wis. Stats. §49.155 which provides a subsidy for child care for individuals who require child care in order to attend school, work or engage in other approved activities. When overpayments occur, the county agency is required to recover them either from the recipient or from the child care center, Wis. Stats. §49.155(3). Where the agency has determined that an amount can be recovered, it is required to certify that fact to the Department of Children and Families under Wis. Stats. §49.85(1). The Department may then, after meeting certain notice requirements certify the amount to the Department of Revenue in order to obtain repayments by intercepting tax refunds or credits that may be due to the recipient or provider, Wis. Stats. §49.85(2)(b).

When an individual requests a hearing regarding a tax intercept, the issues at the hearing are limited to exclude those that could have been presented at a prior hearing, Wis. Stats. §49.85(4)(b). Petitioner had an opportunity for a hearing when the original notice of overpayment was issued; thus issues concerning the existence and the amount of the overpayment are barred from consideration here. This generally leaves only the questions of whether the Department imposed the tax intercept on the right person (which it clearly did) and whether any payments made against the outstanding balance were not properly credited (of which there is no evidence).

Petitioner states that the amount of the debt was reduced to approximately \$32,000 in a criminal prosecution (Exhibit 7). The criminal case did not reduce the amount of the debt (which is in the nature of a civil judgment) but set the amount that would be required as restitution in order for petitioner to fulfill her sentence. Petitioner also claimed that the required dunning notices were sent to the wrong address; Wis. Stats. §49.85(b)(2) requires only that the notices be sent to the recipient's last-known address and that was the address that the agency used.

### CONCLUSIONS OF LAW

Petitioner's appeal of the tax intercept notice was limited in scope to issues of mistaken identity and inaccurate crediting of payments made against the overpayment; having found neither, the tax intercept is proper.

**THEREFORE, it is**

**ORDERED**

That the petition for review herein be and hereby is 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 Wis. Stat. § 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 served and filed with the appropriate court 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 Department of Children and Families. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 201 East Washington Avenue, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

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 Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Milwaukee,  
Wisconsin, this 13th day of November, 2012

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Michael A. Greene  
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 November 13, 2012.

Eau Claire County Department of Human Services  
Public Assistance Collection Unit