



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]

DECISION

CTI/142767

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**PRELIMINARY RECITALS**

Pursuant to a petition filed August 02, 2012, under Wis. Stat. § 49.85(4), and Wis. Admin. Code §§ HA 3.03(1), (4), to review a decision by the Milwaukee County Department of Human Services in regard to Child Care, a hearing was held on October 16, 2012, at Milwaukee, Wisconsin.

The issue for determination is whether the appeal of the tax intercept notice was timely.

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: Tamika Terrell

Milwaukee County Department of Human Services  
1220 W. Vliet Street  
1st Floor, Room 106  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

John P. Tedesco

Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On September 21, 2010, the Department issued a Child Care Overpayment Notification to petitioner informing her that she had been overpaid \$41,521.83 in child care payments from January 6, 2008 to December 31, 2008.

3. Petitioner appealed that determination to the Division of Hearings and Appeals. Petitioner appeared at the hearing held on January 11, 2011. In her Decision in case number CCO-115035 (March 30, 2011), Administrative Law Judge Catherine Demski dismissed the appeal. The ALJ invited the petitioner to submit a request for rehearing if petitioner could locate new evidence that she was working during the year as that would be proof of having been engaged in approved activities.
4. Petitioner did not pay any amount toward the overpayment.
5. The Department issued a tax intercept notice on August 12, 2011.
6. The Department intercepted taxes in the amount of \$1,819 from petitioner on January 31, 2012.
7. Petitioner filed a request for hearing on August 2, 2012.

### **DISCUSSION**

At the time of the hearing, I misunderstood the date of the tax intercept notice. I thought the notice was dated August 12, **2012**. It actually was dated August 12, **2011**. An appeal from such a notice must be filed within 30 days of the notice date. This appeal was filed more than 10 months late. The Division of Hearings and Appeals has no jurisdiction to consider the matter and it must be dismissed.

If I could consider the merits, I would have to affirm the tax intercept. Petitioner admits that she is the [REDACTED] against whom the overpayment was determined. And, she admits that she has not paid the debt (other than the amount intercepted in January 2012). Petitioner seems to want to argue the merits of the overpayment case. By statute, that time has passed. Wis. Stat. § 49.85(4)(b). Petitioner had her hearing with opportunity to present evidence and argument and she did not prevail.

### **CONCLUSIONS OF LAW**

The appeal of the tax intercept notice is untimely.

**THEREFORE, it is**

**ORDERED**

That this appeal 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 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 Madison,  
Wisconsin, this 16th day of October, 2012

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John P. Tedesco  
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 October 16, 2012.

Milwaukee County Department of Human Services  
Public Assistance Collection Unit