



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]

DECISION

WTI/143449

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**PRELIMINARY RECITALS**

Pursuant to a petition filed August 25, 2012, under Wis. Stat. § 49.85(4), to review a decision by the Wisconsin Works (W-2) in regard to W2, a hearing was held on November 13, 2012, at Milwaukee, Wisconsin.

The issue for determination is whether there is any issue for determination by the Division of Hearings and Appeals.

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: Heather Summers  
Wisconsin Works (W-2)  
Maximus  
6550 N. 76<sup>th</sup> St.  
Milwaukee, WI 53223

**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. At some past date, the Department determined a \$452 W-2 overpayment to petitioner. She did not request a first-level factfinding appeal from the Department.

3. On February 17, 2012, the Public Assistance Collection Unit issued a notice (exhibit #1) that petitioner's income taxes would be intercepted.
4. On August 28, 2012, petitioner filed a request for hearing (exhibit #2) with the Division of Hearings and Appeals.

### **DISCUSSION**

At the time of the hearing, petitioner explained that she was not appealing the tax intercept notice. I note that an appeal of that tax intercept would not have been timely. Instead, she explained that there is a subsequent and fully separate determination of an overpayment. She explained that that is what she meant to appeal.

I note that the procedure for appeal of a W-2 matter is to first request a factfinding review by the W-2 agency. See W-2 Manual at § 12.2. Only after a factfinding review by the W-2 agency can DHA hear the merits of a case. It appears that the petitioner saw the appeal procedure on the tax intercept notice and assumed it applied to the other overpayment finding. That is not so. Tax intercept appeals have a different procedure than W-2 overpayments and may be appealed directly to the Division of Hearings and Appeals.

### **CONCLUSIONS OF LAW**

There is no issue ripe for determination by the Division of Hearings and Appeals.

**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 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 Madison,  
Wisconsin, this 29th day of November, 2012

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\sJohn 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 November 29, 2012.

Wisconsin Works (W-2)  
Public Assistance Collection Unit