



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

LVO/143725

PRELIMINARY RECITALS

Pursuant to a petition filed September 07, 2012, under Wis. Admin. Code § DCF 201.07(1)(e), to review a decision by the Milwaukee County Department of Human Services in regard to Other, a hearing was held on October 24, 2012, at Milwaukee, Wisconsin.

The issue for determination is whether the appeal of the Levy Notice is 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: Keisha Love

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. Petitioner was sent a Levy Notice dated July 27, 2012. The notice was sent to her current address. This was the address she occupied in July 2012. The Notice stated that petitioner could

file a request for hearing “within 21 days from the date of this notice.” The date at the top of the Notice letter was July 27, 2012.

3. Petitioner filed her request for hearing with the Division of Hearings and Appeals on September 10, 2012.

DISCUSSION

A request for hearing must be timely in order for the Division of Hearings and Appeals to have jurisdiction to hear and decide the merits of the case. In this case, the request was filed more than two weeks after the 21-day deadline had passed. Petitioner stated that she did not read the notice for some time as it was misplaced in her home and she did not open it until she found it again. The failure to file a timely request for hearing was petitioner’s. The request was untimely and DHA does not have jurisdiction in this matter.

I note that at the time of the hearing, petitioner admitted that there is no issue of mistaken identity. Indeed, petitioner admits that she took the previous child care overpayment case to a fair hearing on the merits and the ALJ ruled against her. Petitioner also admitted that she has not paid the debt (until the garnishment began as a result of this levy). Petitioner explained that she simply does not think she should have to pay the debt and wished to re-argue the merits of the overpayment. By statute, that is not an issue for appeal at this point. Even if this were a timely appeal, petitioner would not have prevailed on any issue related to the issuance of the levy.

CONCLUSIONS OF LAW

The request for hearing was not timely.

THEREFORE, it is ORDERED

That this matter 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 24th day of October, 2012

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 24, 2012.

Milwaukee County Department of Human Services
Public Assistance Collection Unit