



FH
[REDACTED]

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

In the Matter of

[REDACTED]

DECISION

LVO/144104

PRELIMINARY RECITALS

Pursuant to a petition filed September 24, 2012, under Wis. Admin. Code § DCF 201.07(1)(e), to review a decision by the Chippewa County Department of Human Services and the Public Assistance Collection Unit (PACU) of the Wisconsin Department of Workforce Development in regard to a levy issued to collect an overpayment of AFDC benefits, a hearing was held on November 13, 2012, by telephone.

The issues for determination are whether (1) the PACU gave proper credit for payments against the outstanding debt, and/or (2) there is a mistaken identity of the debtor.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

Department of Children and Families
201 East Washington Avenue
Madison, Wisconsin 53703
By: Jennifer Bach, PACU

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

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

2. Aid to Families with Dependent Children (AFDC) benefits totaling at least \$1,338.00 were paid out on the petitioner's behalf prior to October, 1994. The county agency subsequently determined in October 1994 that \$1,338 of those benefits were overpayments.
3. The petitioner missed payments to the state for the AFDC overpayment on at least 3 occasions.
4. The Department's PACU sent a Repayment Agreement to the petitioner, dunning letters, and a demand for payment. The petitioner was ordered by a circuit court to make payment on this liability as restitution.
5. The PACU issued a Notice of Levy under Wis. Stat. §49.195(3m) in the amount of \$1,357.90 (including charges for issuing and mailing the warrant) on September 6, 2012.
6. As of the date of hearing, the outstanding balance on this claim, # [REDACTED] was **zero**, due to commencement of recovery by levy. The Department has recovered the full amount of the claim as of October 6, 2012. The Department sent a letter to the petitioner's employer on November 3, 2012, advising that there was no further need to levy against the petitioner.
7. The petitioner does not contest that he is the named debtor against whom the overpayment claim is established.

DISCUSSION

The petitioner questions a warrant issued during the course of the PACU's attempt to collect a claim for overpaid AFDC benefits issued prior to October 1994. The present case is filed under Wis. Stat. §49.195(3s), which allows a debtor to appeal the issuance of the warrant, but limits the appeal "to questions of prior payment of the debt that the department is proceeding against and mistaken identity of the debtor." See Wis. Admin. Code §DCF 101.23(9)(a)5. PACU is allowed to apply funds obtained via levy, lien or tax intercept against the expenses incurred in filing and serving the levy. *Id.*, (a)3.

There is no question of mistaken identity in this case; PACU is proceeding against the correct debtor. At the hearing, both parties agreed that the petitioner has paid off this debt. PACU has already agreed to lift the levy. Ms. Bach offered to call the Department of Corrections (petitioner's current employer) to make it clear that there should be no further levy against the petitioner for this claim.

CONCLUSIONS OF LAW

The levy in question has ended due to full payment of the claim, so there is no issue remaining for determination by this Administrative Law Judge.

THEREFORE, it is

ORDERED

That the petition 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 21st day of November, 2012

\sNancy J. Gagnon
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 21, 2012.

Chippewa County Department of Human Services
Public Assistance Collection Unit