



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]

DECISION

LNO/145204

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**PRELIMINARY RECITALS**

Pursuant to a petition filed November 08, 2012, under Wis. Admin. Code § DCF 201.07(1)(e), to review a decision by the Milwaukee Early Care Administration in regard to Other, a hearing was held on January 15, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the appeal 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: Mary Hartung

Milwaukee Early Care Administration  
Department of Children And Families  
1220 W. Vliet St. 2nd Floor, 200 East  
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 April 15, 2010, the Department mailed a notice of warrant pursuant to Section 49.195(3m) to petitioner which stated that an appeal would have to be filed within 21 days of the date of the notice. The notice stated that it related to a \$32,988.17 debt.

3. Petitioner filed an appeal on November 13, 2012.

### DISCUSSION

If a person fails to repay a public benefits overpayment, the Department may issue a warrant with the county clerk of court that will impose a lien on property owned by the debtor under Wis. Stat., §49.195(3m) or a levy on income under Wis. Stat., §49.195(3n). The Wisconsin Administrative Code, §DCF 101.23(9) allows the Department to issue such a warrant if repayment of a debt is delinquent. The person may appeal the warrant to the Division of Hearings and Appeals, but the only issues that the administrative law judge may review are whether the debt is repaid in full or whether there is mistaken identity. Wis. Adm. Code, §DCF 101.23(9)(a)5.

An appeal in such cases must be filed within 21 days of the notice. In this case, that date was April 15, 2010. The appeal was filed on November 13, 2012, more than two years late.

Petitioner claims she did not get the levy notice or the various related overpayment notices. The Department mailed them to the last known addresses at the relevant times. Petitioner also claims that she was having relationship issues or that she thought the levy notice related to debts on kinship care that were paid. She also states that the levy notice arrived late and must have first been delivered to another post office. Thus, it does appear that she got the levy notice. She failed to persuade me that she did not have a fair opportunity to file an appeal on time.

### CONCLUSIONS OF LAW

The appeal is not timely.

**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 12th day of February, 2013

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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 February 12, 2013.

Milwaukee Early Care Administration  
Public Assistance Collection Unit