



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

LNO/149381

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**PRELIMINARY RECITALS**

Pursuant to a petition filed May 13, 2013, under Wis. Admin. Code, §DCF 201.07(1)(e), to review a decision by the Public Assistance Collection Unit (PACU) to docket a warrant to recover a child care overpayment, a hearing was held on June 12, 2013, by telephone.

The issue for determination is whether the debt has been paid or there is mistaken identity.

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Children and Families  
201 East Washington Avenue  
Madison, Wisconsin 53703

By: Darryl Caper  
Milwaukee Early Care Administration  
Department of Children And Families  
1220 W. Vliet St. 200 East  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Brian C. Schneider  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On December 10, 2010, the agency issued a notice to petitioner informing her that she was overpaid \$3,532.20 in child care assistance from August 5, 2007 through November 30, 2007, claim no. [REDACTED]. Petitioner did not appeal. The PACU began to intercept petitioner's state tax refunds in 2011 to recover the overpayment.

3. By a notice dated April 28, 2013, the PACU notified petitioner that it intended to docket a warrant in Milwaukee County to recover the overpayment. Petitioner then filed this appeal.

### DISCUSSION

Where an individual is subject to a specified overpayment of public assistance (for example, as in this case relating to child care assistance) a county, tribal governing body, W-2 agency, or the department may recover an overpayment by more than one method of collection at the same time. Wis. Stat., §49.195(3p); Wis. Admin. Code, §DCF 101.23(4). One method of collection that the department may utilize is the use of a warrant under Wis. Stat., §49.195 (3m). Wis. Admin. Code, §DCF 101.23(9)(a) provides as follows: "1. If a debt for repayment of an overpayment under s. 49.148, 49.155, 49.157, or 49.19, Stats., is delinquent under sub. (8) and no review or appeal rights under sub. (2) are pending and the time for requesting a review has expired, the department may issue a warrant directed to the clerk of circuit court of any county." The administrative code language echoes the language of Wis. Stat., §49.195(3m).

Any debtor who is subject to a warrant has the right to appeal the proceeding under chapter 227 of the Wisconsin Statutes. The appeal is limited to questions of prior payment of the debt that the department is proceeding against and mistaken identity of the debtor. Wis. Admin. Code, §DCF 101.23(9)(a)5. The warrant is not withdrawn pending an appeal. Id.

In this case petitioner does not contest the identity or that the debt was paid. She testified that she intended to appeal when the original notice was sent but she underwent surgery and was unable to do so. Nevertheless, at this point my authority is limited only to the issues of prior payment and mistaken identity. I do not have authority to find that there was no overpayment.

### CONCLUSIONS OF LAW

The PACU had authority to docket a warrant against petitioner to recover an old child care assistance debt.

**THEREFORE, it is**

**ORDERED**

That the petition for review herein be and the same is hereby 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 17th day of June, 2013

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\sBrian C. Schneider  
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 June 17, 2013.

Milwaukee Early Care Administration - MECA  
Public Assistance Collection Unit