



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

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In the Matter of

[REDACTED] A. [REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

LVO/150175

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**PRELIMINARY RECITALS**

Pursuant to a petition filed June 19, 2013, under Wis. Admin. Code § DCF 201.07(1)(e), to review a decision by the Milwaukee Enrollment Services in regard to Other, a hearing was held on July 31, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the Department properly issued the notice of levy relating to claim # [REDACTED].

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED] A. [REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

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

By: Pamela Hazely  
Milwaukee Enrollment Services  
1220 W Vliet St  
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 issued AFDC overpayment notices relating to claim # [REDACTED] on 9/3/97, 10/2/97, and 11/4/09.
3. Petitioner went into default on the repayment of the balance related to this claim.

4. A levy notice was issued on 5/23/13.
5. Petitioner appealed this levy notice.

### **DISCUSSION**

The petitioner seeks to contest a warrant issued during the course of the Department's attempt to collect a claim for overpaid AFDC benefits issued more than 10 years ago. Petitioner had been paying under a repayment agreement but later defaulted.

Petitioner's argument at hearing was that her husband was partly responsible for the conduct that led to the overpayment and that he has died. She argued that she should only be responsible for part of the sum. But, this argument should have been made in 1997 when the overpayment could have been appealed, not 16 years later after she had been in repayment and defaulted.

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. The Department 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; the Department is proceeding against the correct debtor. Further, testimony at the hearing and submitted state records correctly catalogued previous nonpayment against the outstanding debt. There is, therefore, no basis to disturb the Department's warrant.

### **CONCLUSIONS OF LAW**

Petitioner's appeal of the Department's warrant is limited to questions of prior payment and mistaken identity, and she has established no basis for the lifting of that warrant

**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 26th day of September, 2013

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\sJohn P. Tedesco  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

Wayne J. Wiedenhoef, Acting Administrator  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on September 26, 2013.

Milwaukee Enrollment Services  
Public Assistance Collection Unit