



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[Redacted case name]

DECISION

FTI/154442

PRELIMINARY RECITALS

Pursuant to a petition filed December 30, 2013, under Wis. Stat. § 49.85(4), and Wis. Admin. Code §§ HA 3.03(1), (3), to review a decision by the Juneau County Department of Human Services to intercept the petitioner's income tax refund and apply it against a prior overpayment of FoodShare benefits (FS), a hearing was held on February 6, 2014, by telephone.

The issues for determination are (1) whether petitioner's appeal was timely, and (2) whether the Department correctly sought to intercept the Petitioner's state income tax refund to collect an overpayment of FoodShare benefits.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[Redacted petitioner name]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Diana Wood, ES Spec.
Juneau County Department of Human Services
Courthouse Annex
220 E. LaCrosse Street
Mauston, WI 53948

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [Redacted]) is a resident of Adams County.

2. On September 13, 2013, the Department sent a written notice of negative action, *Important Notice About Your State Tax Refund and Credits*, to the petitioner at his correct address. He received this notice.
3. The petitioner filed a hearing request with the department on December 30, 2013.
4. The negative action in this case was notification of state income tax refund interception. Specifically, the interception notice states that an unpaid FS debt of \$2,189 remained for possible interception. The notice also advised the petitioner to file an appeal of the interception certification within 30 days of the September 13, 2013, notice.
5. The Department recovered \$22 of the overpayment since the interception certification began. This leaves a current balance of \$2,167 remaining for collection.
6. The petitioner admits receipt of the September 2013, interception notice. He denies receipt of the overpayment notice issued on April 9, 2013, to his former address (and his mother's current address). The address used was the last known address that the agency had on file for the petitioner. Apparently, his mother (who is implicated in the overpayment) chose not to share that notice with him.

DISCUSSION

A hearing officer can only hear cases on the merits if there is jurisdiction to do so. There is no jurisdiction if a hearing request is untimely. An appeal of a negative action by a county agency concerning FS must be filed within 90 days of the (overpayment) notice. An appeal from a state tax refund interception notice must be filed within **30** days of the date of the interception notice. Wis. Stat. §49.85(3)(a)2. The petitioner's December 30, 2013, appeal is more than 30 days from the September 13, 2013, interception notice. Thus, no jurisdiction exists for me to review the correctness of the 2013 interception decision.

CONCLUSIONS OF LAW

1. The petitioner's December 2013, appeal was untimely with respect to the Department's September 13, 2013, refund interception certification.

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 Health Services. 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: 1 West Wilson Street, Room 651, 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 10th day of February, 2014

\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 February 10, 2014.

Juneau County Department of Human Services
Public Assistance Collection Unit