



FH
[REDACTED]

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

In the Matter of:

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

LVO/154711

PRELIMINARY RECITALS

Pursuant to a petition filed January 09, 2014, under Wis. Admin. Code § DCF 201.07(1)(e), to review a decision by the State of Wisconsin Department of Children and Families ["DCF"] to issue a levy to seize petitioner's property as a method of collection of a delinquent Wisconsin Works ["W-2"] Child Care ["CC"] debt, a Hearing was held via telephone on June 04, 2014. At petitioner's request Hearings scheduled for April 24, 2014 and March 19, 2014 were rescheduled.

The issue for determination is whether DCF may issue a levy to seize petitioner's property as a method of collection of petitioner's delinquent CC debt.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Irene Lehman, ESS
Forest County Department of Social Services
200 E. Madison Street
Crandon, WI 54520

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Marinette County, Wisconsin.
2. Petitioner received a written letter notice dated December 25, 2013 entitled *Public Assistance Collection Unit Levy Issued* stating an amount due of \$4,649.73 and informing him that: "A levy has been issued by the Department of Children and Families, Public Assistance Collection Unit which seizes any of your property, up to the amount of the levy excluding exemptions, in the possession of or under the control of Midwest Railway Services L.L.C."
3. The levy referenced in *Finding of Fact #2*, above, relates to the following CC overpayment debt: Claim [REDACTED]; Overpayment period: April 29, 2012 to November 24, 2012; Overpayment Amount: \$4,619.03; petitioner was sent a written notice of this CC overpayment, the notice was dated June 12, 2013 and entitled *Child Care (CC) Client Overpayment Notice*.
4. Overpayment collection charges in the amount of \$23.80 (Claim [REDACTED]) and \$6.90 (Claim [REDACTED]) have been added to the amount of Claim [REDACTED].
5. Petitioner does not now present any argument concerning prior payment of the CC debt nor does he present any argument concerning mistaken identity of the debtor.

DISCUSSION

A Hearing, such as this one, concerning a levy to seize property, is limited to questions of prior payment of the debt that the Wisconsin Department of Children and Families ["DCF"] is proceeding against and mistaken identity of the debtor. Wis. Stat. § 49.195(3n)(s) (2011-12); Wis. Admin. Code § DCF 101.23(10)(c)3. (May 2014). Petitioner does not now present any argument concerning prior payment of the CC debt nor does he present any argument concerning mistaken identity of the debtor.

Petitioner testified that he did not do anything wrong and that the overpayment was an administrative error. He testified that he should not be held responsible for some else's mistake. Petitioner's testimony is most understandable. However, such overpayments must still be repaid. Even if the overpayment is partly or wholly due to another's error it must still be repaid. Wis. Admin. Code § DCF 101.23(3) (May 2014); See also, Wis. Admin. Code § DCF 201.04(5)(a)1. (April 2014). A CC overpayment is any CC benefit or payment received in an amount greater than the amount the individual was eligible to receive under applicable statutes and rules, regardless of the reason for the overpayment {a CC overpayment may be the result of client error, administrative error, or an Intentional Program Violation ["IPV"]}. Wis. Admin. Code § DCF 101.23(1)(g) (May 2014); *Wisconsin Shares Child Care Assistance Manual* (10/2013) ["CC Manual"], 2.1.5.1.

CONCLUSIONS OF LAW

For the reasons discussed above, DCF may issue a levy to seize petitioner's property as a method of collection of petitioner's delinquent CC debt.

NOW, THEREFORE, it is

ORDERED

That the petition for review herein be and the same is hereby DISMISSED.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or 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 filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Children and Families, 201 East Washington Avenue, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 11th day of June, 2014

\sSean P. Maloney
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 11, 2014.

Forest County Department of Social Services
Public Assistance Collection Unit
JHopkins1606@hotmail.com