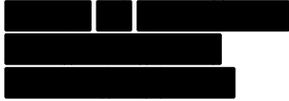




STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of:



AMENDED DECISION

MTI/156030

PRELIMINARY RECITALS

Pursuant to a petition filed March 11, 2014 to review a decision by the Wisconsin Department of Children and Families [“DCF”] relating to Medical Assistance [“MA”] overpayment debts, a Hearing was held via telephone on June 12, 2014. At petitioner’s request Hearings set for May 6, 2014 and April 24, 2014 were rescheduled. The Hearing for this matter was held at the same time as the Hearing for the following closely related matter concerning the same petitioner and Food Stamp [“FS”] overpayment debts: FTI-156031.

A Decision dated June 17, 2104 was issued in this matter. On June 30, 2014 the Division of Hearings and Appeals [“DHA”] received an e-mail message from the Public Assistance Collection Unit [“PACU”] stating:

“Please see the attached decision for [redacted], MTI/156030, which was dismissed due to no jurisdiction. This was a companion case, FTI/156031, which was dismissed for the same reason. The FTI case is correct since she was appealing the federal offset for the FS overpayment; however, our office does not have the authority to intercept a federal refund for repayment of a Medical Assistance overpayments. The attached decision has an error in the application of the law.

I wanted to bring this to your attention so that you may issue an amended decision based on the DOR tax intercept notice or to schedule a new hearing date if you need more information.

Please let me know if you have questions.”

Accordingly, this Amended Decision is being issued. See, Wis. Admin. Code § HA 3.10(1) (February 2013).

There is no issue for determination.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: Rebecca Dallman, ESS
Megan Hoesly, ESS
Marathon County Department of Social Services
400 E. Thomas Street
Wausau, WI 54403

ADMINISTRATIVE LAW JUDGE:
Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Marathon County, Wisconsin.
2. Petitioner requested a Hearing by way of a letter dated March 10, 2014 and received by DHA on March 13, 2014 via U.S. Mail postmarked March 11, 2014; the letter stated, in its entirety: "I am requesting a review for this Public Assistance Collection claim. Dated 01/17/14 as I believe I am not responsible for the Foodshare claim or the Medical Assistance claim. Please inform me upon receipt of this notice."
3. Attached to petitioner's letter requesting a Hearing was a letter from the Wisconsin Department of Children and Families ["DCF"] to petitioner dated January 17, 2014 and entitled *Referral to US Treasury For Collection*; that letter stated, in part: "If you do not pay your debt or take other action described below within 60 days from the date of this notice, the Wisconsin Department of Children and Families will submit your debt to the US Department of the Treasury for collection."
4. The only debts of petitioner DCF submitted to the US Department of the Treasury for collection are debts relating to FS overpayments; DCF did not submit any debts of petitioner relating to MA overpayments.

DISCUSSION

As noted in the above *Findings of Fact*, the only debts of petitioner DCF submitted to the US Department of the Treasury for collection are debts relating to FS overpayments. DCF did not submit any debts of petitioner relating to MA overpayments. This is because DCF does not have any authority to intercept a federal tax refund for repayment of an MA overpayment debt (although DCF does have such authority for FS overpayment debts). See, Wis. Stat. §§ 49.497 & 49.793(1) (2001-12); 7 USC § 2022(b)(1)(C). Therefore, there is no issue for determination.

CONCLUSIONS OF LAW

For the reasons discussed above, there is no issue for determination.

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 Health Services, 1 West Wilson Street, Room 651, 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 2nd day of July, 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 July 2, 2014.

Marathon County Department of Social Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability