



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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FTI/157372

PRELIMINARY RECITALS

Pursuant to a petition filed May 5, 2014, under Wis. Stat. § 49.85(4) and Wis. Admin. Code §§ HA 3.03(1), (3), to review a decision by the Public Assistance Collection Unit in regard to FoodShare benefits (FS), a hearing was held on July 16, 2014, by telephone. A hearing set for June 11, 2014, was rescheduled at the petitioner’s request.

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]
[REDACTED]
[REDACTED]

Respondent:

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

By: Kristine DeBlare, PARIS agent
Public Assistance Collection Unit
P.O. Box 8939
Madison, WI 53708-8938

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is currently a resident of [REDACTED].

2. On October 11, 2013, the Department sent a written notice of negative action to the petitioner at her correct address.
3. The petitioner filed a hearing request with the department on May 5, 2014.
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 \$970.00 (claim # [REDACTED], for the 11/1/2012 through 4/30/2013 period) remained for possible interception. The notice also advised the petitioner to file an appeal of the interception certification within 30 days of the October 11, 2013, notice.
5. No portion of the \$970 claim has been repaid.
6. The petitioner does not dispute that the May 23, 2013 FS overpayment notice was sent to her last known address, or that the October 11, 2013 tax interception notice was sent to her last known address. She explained that she was pre-occupied with caring for older relatives in [REDACTED], who died during 2013, and therefore she did not get around to timely appealing.

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 MA must be filed within 45 days of the date of the action; for FS eligibility, the filing deadline is 90 days. Section 49.45(5), Wis. Stats. 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 May 5, 2014, appeal is more than 30 days from the October 11, 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 May, 2014, appeal was untimely with respect to the Department's October, 2013 refund interception certification.

THEREFORE, it is

ORDERED

That the petition is 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 the action occurred. 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 17th day of July, 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 July 17, 2014.

Public Assistance Collection Unit
Public Assistance Collection Unit