



FH  
[REDACTED]

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

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In the Matter of:

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

CCO/158912

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**PRELIMINARY RECITALS**

Pursuant to a petition filed July 10, 2014, under Wis. Admin. Code § HA 3.03, to review a decision by the Milwaukee Early Care Administration ["MECA"] in regard to Child Care ["CC"], a Hearing was held via telephone on August 5, 2014.

The issue for determination is whether it was correct to establish the following Claim against petitioner for overpayments of Wisconsin Works ["W-2"] Child Care benefits ["CC"]: Claim Number [REDACTED] for the time period February 2014 to April 2014 in the total amount of \$1,109.30 (reduced from \$2,236.59).

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: Tamika Terrell, Child Care Subsidy Specialist  
Milwaukee Early Care Administration - MECA  
Department of Children And Families  
1220 W. Vliet St. 2nd Floor, 200 East  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Sean P. Maloney  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County, Wisconsin.
2. MECA established the following Claim against petitioner for overpayments of W-2 CC: Claim Number [REDACTED] for the time period February 2014 to April 2014 in the total amount of \$1,109.30 (reduced from \$2,236.59).
3. The Overpayment listed in *Findings of Fact #2*, above, was caused by CC agency administrative error; the CC agency failed to correctly budget petitioner's employment income (it did not include her bonuses in her income); this resulted in petitioner being found eligible for CC when she was not eligible.

**DISCUSSION**

The County or agency must determine whether an overpayment of W-2 CC has been made and, if so, the amount of the overpayment. Wis. Stat. § 49.195(3) (2011-12); See also, Wis. Admin. Code §§ DCF 101.23 (May 2014) & 201.04(5)(a) (April 2014); *Wisconsin Shares Child Care Assistance Manual* ["CC Manual"], 2.1.5. Even if the overpayment is partly or wholly due to agency error it must still be repaid. Wis. Admin. Code § DCF 101.23(3) (May 2014); and, Wis. Admin. Code § DCF 201.04(5)(a)1. (April 2014); CC Manual 2.1.5.1 & 2.5.1.2. A W-2 CC overpayment is any W-2 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 W-2 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); and, Wis. Admin. Code § DCF 201.04(5)(a)1. (April 2014); CC Manual 2.1.5.1. & 2.1.5.2.

As noted in the above *Findings of Fact* the CC overpayment in this case was due to agency error. It was not petitioner's fault. Petitioner does not dispute that the overpayment occurred. However, petitioner argues because the overpayment is not her fault she should not have to repay it. It is most understandable that petitioner would feel this way. Nevertheless, as noted above, a W-2 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. Even if the overpayment is partly or wholly due to CC agency error it must still be repaid. Therefore, petitioner is liable for the overpayment listed in *Findings of Fact #2*, above.

**CONCLUSIONS OF LAW**

For the reasons discussed above, it was correct to establish the following Claim against petitioner for overpayments of W-2 CC: Claim Number [REDACTED] for the time period February 2014 to April 2014 in the total amount of \$1,109.30 (reduced from \$2,236.59).

**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 18th day of August, 2014

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\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 August 18, 2014.

Milwaukee Early Care Administration - MECA  
Public Assistance Collection Unit  
Child Care Fraud