



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of:

Redact

DECISION

WTI/160774

PRELIMINARY RECITALS

Pursuant to a petition filed September 22, 2014, under Wis. Stat. § 49.85(4), to review a decision by the State of Wisconsin regard to Wisconsin Works ["W2"], a Hearing was held via telephone on November 19, 2014.

The issue for determination is whether the Division of Hearings and Appeals ["DHA"] has jurisdiction to decide the merits of this matter.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

Redact

Respondent:

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

BY: Sarah Holewinski, Program Coordinator
Forward Service Cooperation

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # Redact) is a resident of Columbia County, Wisconsin.
2. The following 3 Claims have been established against petitioner in the total amount of \$924.00 relating to overpayments of W2: (I) Claim Redact ; March 1, 2014 to March 31, 2014;

\$349.00; (II) Claim Redact; February 1, 2014 to February 28, 2014; \$568.00; and, (II) Claim Redact; fee; \$7.00.

3. The Wisconsin Department of Children and Families ["DCF"] mailed a written notice entitled *Important Notice About Your State Tax Refund and Credits* and dated August 15, 2014 to petitioner's last known address; that notice was received by petitioner; the written notice stated that petitioner's Wisconsin State Tax Refund may be intercepted to repay the W2 overpayment identified in *Findings of Fact #2*, above; the written notice also notified petitioner of her appeal rights, including the 30-day time limit for requesting a Hearing and the DHA address to which the Hearing request should be mailed.
4. Petitioner requested a Hearing by a *Request For a Wisconsin Works (W-2) Fact Finding Review* form dated September 9, 2014 that was received by DHA on September 23, 2014 via U.S. Mail postmarked September 22, 2014.

DISCUSSION

An appeal of a tax intercept is timely only if a Hearing is requested within 30 days after the date of the tax intercept notice. Wis. Stat. §§ 49.85(3)(a)2. & (b)2. (2011-12); See also, Wis. Admin. Code § HA 3.05(3)(b) (February 2013). A Hearing request that is not made within the allowed 30 days must be dismissed for lack of jurisdiction. Wis. Admin. Code § HA 3.05(4)(e) (February 2013).

In this case, the tax intercept notice is dated August 15, 2014. As required, the notice was sent to petitioner's last-known address. See, Wis. Stat. §§ 49.85(3)(a)intro. & (b)intro. (2011-12). The notice was received by petitioner. Petitioner's request for a Hearing was not filed until September 22, 2014 (the date of the postmark). Wis. Admin. Code § HA 3.05(3)(c) (February 2013). This is outside of the allowed 30 days. Thus, petitioner's appeal is not timely and must be dismissed for lack of jurisdiction.

Petitioner testified that she did not request a Hearing sooner due to procrastination. This is unfortunate, but DHA still does not have jurisdiction to decide the merits of this matter.

CONCLUSIONS OF LAW

For the reasons discussed above, DHA does not have jurisdiction to decide the merits of this matter.

NOW, THEREFORE, it is

ORDERED

That the petition for review herein and the same is hereby DISMISSED. The amount of \$924.00 may be certified to the Wisconsin Department of Revenue, pursuant to Wis. Stat. § 49.85 (2011-12), for purpose of a tax intercept of petitioner to recover the W2 overpayment and fee listed in *Findings of Fact #2*, above.

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 17th day of December, 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 December 17, 2014.

Wisconsin Works (W-2)
Public Assistance Collection Unit