



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

WTI/163962

PRELIMINARY RECITALS

Pursuant to a petition filed February 11, 2015, under Wis. Stat. § 49.85(4), to review a decision by the Wisconsin Works (W-2) in regard to W2, a hearing was held on April 22, 2015, at Kenosha, Wisconsin.

The issue for determination is whether the Kenosha County W-2 agency (the agency) correctly instituted a tax intercept to recover a W-2 overpayment from the Petitioner.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Children and Families
201 East Washington Avenue, Room G200
Madison, Wisconsin 53703

By: Karen Mayer, Fair Hearing Coordinator
Kenosha County Human Service Department
8600 Sheridan Road
Kenosha, WI 53143

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Kenosha County.
2. On July 16, 2014, the agency sent the Petitioner a notice indicating that she had been overpaid \$1,586.00 in W-2 benefits for the period of June 1, 2014 and July 31, 2014. (Exhibit 15)
3. On September 3, 2014, October 2, 2014 and November 4, 2014, the agency sent the Petitioner dunning notices (reminders) about the debt. (Exhibit 8)

4. On November 26, 2014 and January 5, 2015, the Petitioner and his wife made payments on the debt, totaling \$80.00. (Exhibit 16)
5. On January 16, 2015, the Public Assistance Collections Unit issued to the Petitioner a notice of tax intercept, advising her that it intended to intercept her state tax refunds to satisfy the remaining \$1506.00 balance. (Exhibit 13)
6. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on February 11, 2015. (Exhibit 1)

DISCUSSION

When a W-2 overpayment is established, the agency, via the CARES system, should issue a repayment agreement. *Wisconsin Works (W-2) Manual, Section 10.3.4* “Monthly repayments should be negotiated in an amount that will repay the overpayment within a reasonable length of time. In the event of unsuccessful collection efforts by the W-2 agency, and after the third dunning notice is sent by CARES, the Department will begin centralized collection efforts.” (Id.)

In the case at hand, the agency was unable to produce any documentation showing that the Petitioner was sent a repayment agreement for the W-2 debt. The record only contains a repayment agreement for a child care overpayment. (See Exhibit 17) Consequently, the agency has not met its burden to show that it correctly instituted a tax intercept to recover the W-2 overpayment.

The agency will have to rescind the tax intercept notice, until such time as it issues a repayment agreement to the Petitioner and provides him with an opportunity to make reasonable repayment arrangements.

CONCLUSIONS OF LAW

The W-2 agency did not correctly institute a tax-intercept to recover a W-2 overpayment from the Petitioner.

THEREFORE, it is

ORDERED

That the agency rescind the January 16, 2015 tax intercept notice and issue to the Petitioner a repayment agreement. The agency shall take all administrative steps necessary to complete this task within ten days of this decision.

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, Room G200, 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 Milwaukee,
Wisconsin, this 23rd day of June, 2015.

\sMayumi M. Ishii
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 23, 2015.

Wisconsin Works (W-2)
Public Assistance Collection Unit