



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Redacted case name

DECISION

LNO/166150

PRELIMINARY RECITALS

Pursuant to a petition filed May 18, 2015, under Wis. Admin. Code, §DCF 201.07(1)(e), to review a decision by the Public Assistance Collection Unit (PACU) to docket a warrant to recover a child care overpayment, a hearing was held on June 9, 2015, by telephone.

The issue for determination is whether the agency correctly imposed a lien.

PARTIES IN INTEREST:

Petitioner:

Redacted petitioner name

Respondent:

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

By: Redacted name
Milwaukee Early Care Administration
1220 W. Vliet St., 200 East
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # Redacted) is a resident of Milwaukee County.
2. On November 25, 2013, the Milwaukee Early Care Administration agency informed the mother of petitioner's children and petitioner that they were overpaid \$6,947.87 in child care assistance from December 1, 2012 through July 31, 2013, claim no. Redacted.
3. Petitioner did not appeal. He also did not respond to a repayment agreement and a series of "dunning" notices.

4. On April 30, 2015, the PACU informed petitioner that it intended to docket a warrant in Milwaukee County to impose a lien on petitioner's property. Petitioner then filed this appeal.

DISCUSSION

Under Wis. Stat., §49.195(3m), if a person fails to repay a public benefits overpayment, the Department may issue a warrant with the county clerk of court that will impose a lien on property owned by the debtor. The Wisconsin Administrative Code, §DCF 101.23(9) allows the Department to issue such a warrant if repayment of an AFDC debt is delinquent. The person may appeal the warrant to the Division of Hearings and Appeals, but the only issues that the administrative law judge may review are whether the debt is repaid in full or whether there is mistaken identity. Wis. Adm. Code, §DCF 101.23(9)(a)5.

There is no question that petitioner is a correct person and it is evident that the full amount still is owed. Petitioner appeared at the hearing to contest the original overpayment claim, but the time to do that was in 2013 when the claim originated. Appeals of child care overpayments must be filed within 45 days of the action, and the notice of the overpayment clearly stated that an appeal must be filed within 45 days. Wis. Admin. Code, §HA 3.05(3).

I must conclude, therefore, that the PACU has the authority to impose the lien to recover the overpayment.

CONCLUSIONS OF LAW

The Department is authorized to issue the warrant in this case because petitioner has an outstanding child care assistance debt and he is a correct person who owes the money.

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, 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 Madison,
Wisconsin, this 15th day of June, 2015

\sBrian C. Schneider
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 15, 2015.

Milwaukee Early Care Administration - MECA
Public Assistance Collection Unit