



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

LNO/170998

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**PRELIMINARY RECITALS**

Pursuant to a petition filed December 22, 2015, under Wis. Admin. Code § DCF 201.07(1)(e), to review a decision by the Milwaukee Early Care Administration - MECA in regard to a notice of warrant related to a child care overpayment, a hearing was held on February 10, 2016, at Madison, Wisconsin.

The issue for determination is whether this appeal is timely.

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: [REDACTED]

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

**ADMINISTRATIVE LAW JUDGE:**

John P. Tedesco  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Dane County.
2. Petitioner was notified of a CC overpayment from 2009-2010 by various notices in 2011.
3. Petitioner appealed the overpayment by hearing request dated 7/20/11. Hearing was scheduled on January 20, 2012 and petitioner did not appear. The appeal was dismissed.

4. A tax intercept was issued on the debt on 2/17/12.
5. A Notice of Warrant was issued to petitioner on May 28, 2015.
6. Petitioner appealed on 12/22/15.

### DISCUSSION

The petitioner seeks to contest a warrant issued during the course of the PACU's attempt to collect a claim for overpaid CC benefits issued in 2009-2010. The present case is filed under Wis. Stat. §49.195(3s), which allows a debtor to appeal the issuance of the warrant, but limits the appeal "to questions of prior payment of the debt that the department is proceeding against and mistaken identity of the debtor." See Wis. Admin. Code §DCF 101.23(9)(a)5. PACU is allowed to apply funds obtained via levy, lien or tax intercept against the expenses incurred in filing and serving the levy. *Id.*, (a)3. The problem for petitioner is that the levy notice was sent to her on May 28, 2015. A person has 21 days in which to appeal from such a notice. In this case the request for hearing was filed on December 22, 2015 (postmark date). Petitioner explained that she did not receive the levy notice.

Petitioner conceded that she received multiple notices about this debt in the past. There were the initial overpayment notices and a subsequent tax intercept notice in February 2012. Presumably, the taxes were never intercepted as petitioner is now a resident of [REDACTED]. The matter has now gone to a collection agency and petitioner explained that now she really wants to get this off her record.

Ultimately, petitioner is only seeking to argue the merits of the overpayment debt. That time passed long ago. Petitioner does not argue that this is a case of mistaken identity so would fail in the appeal of this warrant/levy even if this were a timely appeal.

### CONCLUSIONS OF LAW

The appeal is untimely.

**THEREFORE, it is**

**ORDERED**

That this matter 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 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 17th day of March, 2016

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\sJohn P. Tedesco  
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 March 17, 2016.

Milwaukee Early Care Administration - MECA  
Public Assistance Collection Unit