



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

CTI/171611

PRELIMINARY RECITALS

Pursuant to a petition filed January 21, 2016, under Wis. Stat. § 49.85(4), and Wis. Admin. Code §§ HA 3.03(1), (4), to review a decision by the Milwaukee Early Care Administration - MECA in regard to Child Care, a hearing was held on February 17, 2016, at Milwaukee, Wisconsin.

The issue for determination is

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



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 Milwaukee County.
2. In late 2014 the agency sought recoupment of a child care overpayment.
3. Petitioner agreed to pay the sum and entered into a repayment agreement with the agency. Petitioner did not seek an appeal of the overpayment.

4. Petitioner failed to comply with the repayment agreement terms by failing to make timely payments on at least three occasions.
5. The agency issued a tax intercept notice on 1/15/16 for the amount of \$10,014.09.
6. Petitioner filed an appeal of the tax intercept notice on 1/25/16.

DISCUSSION

The Department of Children and Families is required to recover all overpayments of public assistance benefits, including child care payments. Wis. Stat., §§49.195(3), 49.155. Wis. Stat., §49.85, provides that the department shall, at least annually, certify to the Department of Revenue the amounts that it has determined that it may recover resulting from overpayments of general relief benefits, food stamps, W-2 benefits including child care, and Medical Assistance.

The Department must notify the person that it intends to certify the overpayment to the Department of Revenue for setoff from his/her state income tax refund and must inform the person that he/she may appeal the decision by requesting a hearing. *Id.* at §49.85(3).

The hearing right is described in Wis. Stat., §49.85(4)(b), as follows:

If a person has requested a hearing under this subsection, the department ... shall hold a contested case hearing under s. 227.44, except that the department ... may limit the scope of the hearing *to exclude issues* that were presented at a prior hearing or *that could have been presented at a prior opportunity for hearing*.

Italics added. Petitioner was notified of the original overpayment by notice in 2014. She entered into a repayment agreement and defaulted on the monthly payments after non-payment in October 2014, June 2015, and November 2015 were not made or were late. Petitioner did not pay the debt. The agency issued a tax intercept dated 1/15/16 as a means of collecting the debt.

Regardless, it was apparent that petitioner simply wanted to dispute the merits of the overpayment case. She explained that she has been very busy and only lately has had the time to pursue a challenge to this matter. The overpayment matter was ripe for appeal back in 2014 and will not be revived two years later. Petitioner concedes that she is the person who entered into the repayment agreement with the agency to pay back the debt. She also concedes that she has not fulfilled that agreement. The tax intercept is proper.

CONCLUSIONS OF LAW

The agency properly issued the tax intercept.

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 10th day of May, 2016

\sJohn P. Tedesco
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on May 10, 2016.

Milwaukee Early Care Administration - MECA
Public Assistance Collection Unit