



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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOP/173009

PRELIMINARY RECITALS

Pursuant to a petition filed March 23, 2016, under Wis. Admin. Code §HA 3.03, to review a decision by the Waushara County Human Services in regard to FoodShare benefits (FS), a hearing was held on April 14, 2016, at Wautoma, Wisconsin.

The issue for determination is whether the agency correctly determined that the petitioner was overpaid \$3,448 in FoodShare (FS) from May 1, 2015 to March 31, 2016.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: [REDACTED]
Waushara County Human Services
213 W. Park Street
PO Box 1230
Wautoma, WI 54982-1230

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Waushara County. There are 2 people in her household.

2. In April 2015 the petitioner began receiving monthly payments in the amount of \$945 for surviving widow benefits from social security.
3. The petitioner also receives \$357 in monthly social security disability benefits. She receives child support each month. The child support payments vary between \$384.90 and \$550. When determining the overpayment the agency correctly counted the actual amount of child support received during each of the overpayment months.
4. The petitioner's monthly rent is \$575. She is responsible for her utilities.
5. The petitioner did not report her surviving widow social security benefits to the agency until March 2016 when she applied for MAPP benefits. She does not dispute this income, but states that she did not report it because she thought that the system would automatically update this information.
6. On March 18, 2016 the agency sent the petitioner a notice of overpayment stating that she was overpaid \$3,448 in FS benefits, under claim number [REDACTED], from May 1, 2015 to March 31, 2016.
7. On March 23, 2016 the Division of Hearings and Appeals received the petitioner's Request for Fair Hearing.

DISCUSSION

The Federal regulation concerning FoodShare overpayments requires a State agency to take action to establish a claim against any household that received an overissuance of FoodShare due to an intentional program violation, an inadvertent household error (also known as a "client error"), or an agency error (also known as a "non-client error"). 7 *Code of Federal Regulations (CFR)* § 273.18(b), see also *FoodShare Wisconsin Handbook (FSH)*, §7.3.2. Generally FS overpayments arise when a person underreports his or her income or when there is an increase in income that is not reported. An elderly, blind, or disabled (EBD) household that has no earned income must report changes in unearned income of more than \$40 within 10 days. *FSH*, §6.1.1.1.

The petitioner is an EBD household with only unearned income. In April 2015 the petitioner began receiving \$945 per month in surviving widow social security payments. She never reported this increase in income to the agency. This increase in income caused her monthly to decrease from \$357 to nearly \$0. The petitioner stated that she never reported this income because she thought the system would automatically update. Generally the CARES system updates with social security information, however, in this case, because it was a survivor widow benefit, the system never updated. Ultimately, it is the petitioner's responsibility to report this information. The failure to report caused the overpayment. I have also reviewed the overpayment calculations. Those calculations are correct.

CONCLUSIONS OF LAW

The agency correctly determined that the petitioner was overpaid \$3,448 in FoodShare (FS) from May 1, 2015 to March 31, 2016.

THEREFORE, it is

ORDERED

That the petition 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 Health Services, 1 West Wilson Street, Room 651, 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 21st day of April, 2016

\sCorinne Balter
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 April 21, 2016.

Waushara County Human Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability