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[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

**DECISION**  
Case #: FOP - 175033

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**PRELIMINARY RECITALS**

Pursuant to a petition filed on June 14, 2016, under Wis. Admin. Code §HA 3.03, to review a decision by the Winnebago County Department of Human Services regarding FoodShare benefits (FS), a hearing was held on August 16, 2016, by telephone.

The issue for determination was to be whether Petitioner was overpaid FoodShare but the matter resolved as the hearing proceeded.

There appeared at that time the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

;

Respondent:

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

By: [REDACTED]

Winnebago County Department of Human Services  
220 Washington Ave.  
PO Box 2187  
Oshkosh, WI 54903-2187

**ADMINISTRATIVE LAW JUDGE:**

David D. Fleming  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Winnebago County.
2. Petitioner was sent a FoodShare Overpayment notice, dated June 9, 2016, which informed her that she had been overissued FoodShare in the amount of \$250.00 for the period of May 23, 2016 through

June 30, 2016. The overissuance was due to agency error. Petitioner's FoodShare issuance history (Ex # 4) indicates that Petitioner was issued FoodShare for May 2016 in the amount of \$56.00 and \$194.00 for June 2016.

3. Petitioner is subject to Able-Bodied Adult without Dependent (ABAWD) requirements. She used 2 months of time limited benefits in October and November 2015. She was ABAWD exempt from December 2015 through February 2016 for medical reasons. As the hearing developed it became apparent that Petitioner was also exempt for the month of June 2016 due to employment. At that point Petitioner agreed to repay the May 2016 FoodShare issuance as an overpayment. The May 2016 FoodShare issuance was \$56.00.

### **DISCUSSION**

As noted at Finding # 3, this case resolved as the hearing progressed.

For Petitioner's benefit the following from the FSH describes repayment provisions:

#### 7.3.2.12 Repayments

A member who makes a repayment agreement may not be subject to tax intercept as long as he or she is meeting the conditions of the agreement. If a member's repayment agreement becomes delinquent, which is defined as three missed payments over the life of the debt and has been sent three dunning, or past due, notices, he or she is subject to both tax intercept and monthly repayment.

The policies for monthly repayments are listed on the repayment agreements:

1. Overpayments less than \$500 should be paid by at least \$50 monthly installments.
2. Overpayments \$500 and above should be paid within a three-year period either by equal monthly installments, or by monthly installments of not less than \$20.

### **CONCLUSIONS OF LAW**

That this matter resolved as the hearing progressed with Petitioner agreeing to repay the May 2016 FoodShare issuance of \$56.00.

**THEREFORE, it is**

**ORDERED**

That this matter is remanded to the agency with instructions to remove the June 2016 FoodShare allotment of \$194.00 from the overpayment involved here. This is to be done within 10 days of the date of this decision.

Further, this appeal is dismissed as to the May 2016 FoodShare overissuance involved here.

### **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, **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 12th day of September, 2016

\s \_\_\_\_\_  
David D. Fleming  
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 September 12, 2016.

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