



FH  
[REDACTED]

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

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In the Matter of:

[REDACTED]

DECISION

FOP/143081

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**PRELIMINARY RECITALS**

Petitioner filed a petition on August 13, 2012 under Wis. Admin. Code § HA 3.03 (September 2001) to review a decision by the Columbia County Health and Human Services Department ["County"] to establish an overpayment of Food Stamps ["FS"] against her. A Hearing was held via telephone on September 28, 2012.

The issue for determination is whether the following Claim may be established against petitioner for an overpayment of FS: Claim # [REDACTED] for the time period January 1, 2012 to July 31, 2012 in the total amount of \$1,544.00.

There appeared at that time via telephone the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]

Wisconsin Department of Health Services  
Room 650  
1 West Wilson Street  
P.O. Box 7850  
Madison, Wisconsin 53707-7850.

BY: Wendy Metcalf, ES Supervisor  
Jeanette Gessner, ESS

Columbia County Health and Human Services Department  
2652 Murphy Road  
P.O. Box 136  
Portage, Wisconsin 53901

OTHER PERSON PRESENT:  
[REDACTED], petitioner's boyfriend

ADMINISTRATIVE LAW JUDGE:  
Sean P. Maloney  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Columbia County, Wisconsin.
2. The County established the following Claim against petitioner for an overpayment of FS: Claim # [REDACTED] for the time period January 1, 2012 to July 31, 2012 in the total amount of \$1,544.00.
3. During the time period of the overpayment detailed in *Finding of Fact #2*, above, petitioner and her boyfriend lived together and purchased and prepared meals together.
4. During the time period of the overpayments detailed in *Finding of Fact #2*, above, petitioner's boyfriend had income that put petitioner over the FS income limit; this income was not budgeted by the County when figuring petitioner's eligibility for FS during the time period in question.

**DISCUSSION**

Income includes all household income from wherever source, excluding only certain specific items not relevant here. 7 C.F.R. §§ 273.9(b) & (c) (2011); FoodShare Wisconsin Handbook ["FSWH"] 4.3.1. Earned income of any household member age 18 years old or older is to be included in the FS household income. 7 C.F.R. § 273.9(c)7. (2011); FSWH, 4.3.2.2.3.

The basic definition of a *household* for purposes of FS is a group of individuals who live together and customarily purchase food and prepare meals together for home consumption. 7 C.F.R. §§ 273.1(a)(3) (2011); FSWH 3.3.1.1.

Petitioner and her boyfriend both acknowledged at the September 28<sup>th</sup> Hearing that they lived together and purchased and prepared meals together during the time period in question. They do not dispute that petitioner's boyfriend had income that was not budgeted when figuring petitioner's eligibility for FS and that that income put petitioner over the FS income limit. Therefore, the overpayment established by the County must be sustained.

Petitioner testified that she never denied that her boyfriend lived with her and her boyfriend testified that "somewhat screwed-up." This may be correct. However, all FS overpayments, regardless of fault, must be collected. 7 C.F.R. § 273.18(b) (2011); See also, FSWH 7.3.1.1 & 7.3.2.1. This means a person can be held liable for an FS overpayment and made to repay it even though the overpayment was not their fault.

**CONCLUSIONS OF LAW**

For the reasons discussed above, the following Claim may be established against petitioner for an overpayment of FS: Claim # [REDACTED] for the time period January 1, 2012 to July 31, 2012 in the total amount of \$1,544.00.

**NOW, THEREFORE, it is**

**ORDERED**

that the petition for review herein be and the same is hereby DISMISSED.

**REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found 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 appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Madison,  
Wisconsin, this 2nd day of October, 2012

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Sean P. Maloney  
Administrative Law Judge  
Division of Hearings and Appeals

c: Gretchen/wendy Metcalf, Columbia County Health & Human Services - email  
Department of Health Services - email





**State of Wisconsin \DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on October 2, 2012.

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