



FH
[REDACTED]

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

In the Matter of

[REDACTED]

DECISION

FOP/143791

PRELIMINARY RECITALS

Pursuant to a petition filed September 11, 2012, under Wis. Admin. Code §HA 3.03, to review a decision by the Waupaca County Department of Social Services in regard to FoodShare benefits (FS), a hearing was held on November 05, 2012, at Waupaca, Wisconsin.

The issue for determination is whether the Department erred in its determination of a FoodShare ("FS") overissuance to petitioner in the amount of \$883 from 7/1/11 to 6/30/12 due to her failure to report income received from her sons.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

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

By: Sherry Blomberg

Waupaca County Department of Social Services
811 Harding Street
Waupaca, WI 54981-2087

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Waupaca County.
2. Petitioner was an ongoing FS recipient.

3. Petitioner began living with her sons in June 2011. At that time they began paying her a total of \$250 toward rent and other expenses. Petitioner did not report this income to the Department.
4. At the time of her renewal interview for the FS program in June 2012, petitioner informed the Department that she received \$250 from her sons.
5. The Department recalculated eligibility for FS including the new income and determined that petitioner was not eligible for any FS.
6. The Department sent a Notification of FoodShare Overissuance to petitioner on June 25, 2012 for claim number [REDACTED] in the amount of \$883 for the period 7/1/11 to 6/30/12.
7. Petitioner filed a timely appeal.

DISCUSSION

The only issue raised by petitioner is when she began receiving income from her sons. The Department maintains that she began receiving the income in June 2011. Petitioner testified that she only began receiving the income in February 2012.

In support of its position, the Department representative recalled her conversation with petitioner during which petitioner told her about the \$250 income. The representative recalled that petitioner told her that she began receiving the income when the sons began living with her in June 2011. The Department also provided case comments record which were made contemporaneously. The entry for June 22, 2012 indicates "Client lives with 2 adult sons, she pays the rent and they pay her a total of \$250/month towards the shelter costs since they moved in together in 6/11."

Petitioner testified that her sons did not pay her in 2011 but only began paying her the \$250 in February 2012. Petitioner adamantly testified during the hearing that "never have I ever, ever not reported income." But, petitioner undermines her own argument and is not credible because it is apparent from the record that petitioner did not report the additional income beginning in February either. The income was only reported in June. Therefore, her argument is that she violated the program rules, but that she did not violate the program rules as much as the Department is saying. It is also notable that petitioner did not ask either of her son's to testify about when they began paying her.

Based on the contemporaneous record of the June 22 conversation, and the pecuniary motive that petitioner has to misrepresent the date the payments began, I am persuaded that the Department did not err.

CONCLUSIONS OF LAW

The Department did not err in its determination of a FoodShare ("FS") overissuance to petitioner in the amount of \$883 from 7/1/11 to 6/30/12 due to her failure to report income received from her sons.

THEREFORE, it is

ORDERED

That this appeal is 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 served and 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, 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 8th day of November, 2012

John 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 November 8, 2012.

Waupaca County Department of Social Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability