



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]

DECISION

FOP/146124

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**PRELIMINARY RECITALS**

Pursuant to a petition filed December 26, 2012, under Wis. Admin. Code §HA 3.03, to review a decision by the Dane County Department of Human Services ["County"] in regard to FoodShare benefits ["FS"], a Hearing was held via telephone on February 20, 2013 . At petitioner's request a Hearing scheduled for January 30, 2013 was rescheduled.

The issue for determination is whether it was correct to establish the following claim against petitioner for overpayments of FS: Claim Number [REDACTED] for the time period November 1, 2011 to January 31, 2012 in the total original amount of \$1,069.00.

There appeared at that time via telephone the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]

Respondent:

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

By: Luisa McKy, ESS

Michelle Furr, ESS

Dane County Department of Human Services  
1819 Aberg Avenue  
Suite D  
Madison, WI 53704-6343

**ADMINISTRATIVE LAW JUDGE:**

Sean P. Maloney

Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Dane County.
2. The County established the following claim against petitioner for overpayments of FS: Claim Number [REDACTED] for the time period November 1, 2011 to January 31, 2012 in the total original amount of \$1,069.00.
3. The FS overpayment in *Finding of Fact* #2, above, resulted from the fact that the earned income of petitioner's household increased but the increase was not budgeted when calculating FS during the time period in question.

**DISCUSSION**

All FS overpayments, regardless of fault, must be collected. 7 C.F.R. § 273.18(b) (2011); See also, *FoodShare Wisconsin Handbook* ["FWH"] 7.3.1.1 & 7.3.2.1. Therefore, a person can be held liable for an FS overpayment and made to repay it even though the overpayment was not their fault.

Petitioner does not deny that increased earned income was not budgeted when calculating FS during the time period in question. The County maintains that petitioner failed to report the increased earned income. Petitioner claims there was a "huge hole" in communication with the County and it was not communicated to her that income changes had to be reported. She argues that the overpayment is unfair. However, petitioner does not deny that her household had the increased income claimed by the County for the time periods claimed by the County and that, for whatever reason, this increased income was not budgeted. This resulted in an overpayment. As noted above, all FS overpayments, regardless of fault, must be collected. Therefore, petitioner may be made to repay the above overpayment (even if it was not her fault).

**CONCLUSIONS OF LAW**

For the reasons discussed above, petitioner is liable for the FS overpayment detailed in *Finding of Fact* #2, above, and must repay it.

**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 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 6th day of March, 2013

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\sSean P. Maloney  
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 March 6, 2013.

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