



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOP/147141

PRELIMINARY RECITALS

Pursuant to a petition filed February 04, 2013, under Wis. Admin. Code §HA 3.03, to review a decision by the Milwaukee Enrollment Services ["MiLES"] in regard to FoodShare benefits ["FS"], a Hearing was held via telephone on March 05, 2013.

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 February 1, 2012 to November 30, 2012 in the total amount of \$5,260.00.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Sharon Thacker, HSPC, Sr.
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

OTHER PERSONS PRESENT:

[REDACTED], Spanish/English Interpreter, SWITS
[REDACTED], petitioner's husband
[REDACTED], 1½ year old child of petitioner and Mr. [REDACTED]

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. The County established the following claim against petitioner for overpayments of FS: Claim Number [REDACTED] for the time period February 1, 2012 to November 30, 2012 in the total amount of \$5,260.00.
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 of her husband. Petitioner claims that she reported the earned income and provided verification (although she claims that she did not know she was required to report the increase within 10 days of the increase). However, petitioner does not deny that her husband had increased income for the time period 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 may not have been her fault).

Finally, petitioner claims that the County used incorrect income for work at [REDACTED]'s. However, the County verified the [REDACTED]'s income with a telephone call to the employer. Petitioner presented nothing to refute this other than her own testimony.

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 22nd day of March, 2013

\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 22, 2013.

Milwaukee Enrollment Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability