



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOP/147528

PRELIMINARY RECITALS

Pursuant to a petition filed February 19, 2013, under Wis. Admin. Code, §HA 3.03, to review a decision by the Manitowoc County Dept. of Human Services to recover FoodShare benefits (FS), a hearing was held on April 24, 2013, by telephone. A hearing set for April 4, 2013 was rescheduled at the petitioner's request.

The issue for determination is whether petitioner was overpaid FS because his income was not budgeted.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Michelle Koepfel
Manitowoc County Dept. of Human Services
3733 Dewey Street
Manitowoc, WI 54221-1177

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Manitowoc County.
2. In late 2012 petitioner was receiving \$269 per month FS for a five-person household. The income counted was unemployment compensation (UC) received by petitioner.
3. In December the county worker noted that petitioner's UC had ended. She discovered that petitioner began to work in October, 2012. He worked briefly for Pioneer, but then began working for [REDACTED]. His [REDACTED] income is \$5,616 per month. Had petitioner reported the

job the income would have been budgeted beginning December 1, 2012. By the time the agency compiled the income information January and February, 2013 FS had been issued.

4. By a notice dated January 28, 2013, the agency informed petitioner that he was overpaid \$807 in FS from December 1, 2012 through February 28, 2013, claim no. [REDACTED]. The amount was for all FS received in those three months.

DISCUSSION

The Department is required to recover all FS overpayments. An overpayment occurs when an FS household receives more FS than it is entitled to receive. 7 C.F.R. §273.18(c). The federal FS regulations provide that the agency shall establish a claim against an FS household that was overpaid, even if the overpayment was caused by agency error. 7 C.F.R. §273.18(b)(3). All adult members of an FS household are liable for an overpayment. 7 C.F.R. §273.18(a)(4); FS Handbook, Appendix 7.3.1.2.

To determine an overpayment, the agency must determine the correct amount of FS that the household should have received and subtract the amount that the household actually received. 7 C.F.R. §273.18(c)(1)(ii). The gross income limit for a household of five is \$4,502. Handbook, App. 8.1.1. The net income limit for a household of five is \$2,251. Handbook, App. 8.1.1.

With the start of the [REDACTED] job petitioner's monthly income increased to above the gross income limit. His family thus was ineligible for FS beginning December 1, 2012, and the FS issued after that date amounted to an overpayment. I conclude that the FS overpayment was calculated correctly.

CONCLUSIONS OF LAW

Petitioner was overpaid three months' FS because his new job put the household over the FS gross income limit but the FS were issued because the new job was not reported.

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 30th day of April, 2013

\sBrian C. Schneider
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin \DIVISION OF HEARINGS AND APPEALS

David H. Schwarz
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on April 30, 2013.

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