



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/147599

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**PRELIMINARY RECITALS**

Pursuant to a petition filed February 23, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Barron County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on March 20, 2013, at Barron, Wisconsin.

The issue for determination is whether the agency must replace an underpayment of FoodShare benefits that occurred more than a year before the underpayment was discovered.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

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

By: Candi Gillette

Barron County Department of Human Services  
Courthouse Room 338  
330 E Lasalle Ave  
Barron, WI 54812

**ADMINISTRATIVE LAW JUDGE:**

Michael D. O'Brien

Division of Hearings and Appeals

**FINDINGS OF FACT**

1. The petitioner (CARES # [REDACTED]) is a resident of Barron County.
2. The petitioner has received FoodShare for several years.

3. In January 2013, it was discovered that for approximately four years the agency had not been allowing the petitioner a deduction for her childcare expenses. It supplemented her January 2012 through January 2013 benefits by a total of \$1,152.
4. The petitioner seeks to have FoodShare benefits she received before January 2012 supplemented.

### **DISCUSSION**

FoodShare benefits depend upon household size and net income. Net income is determined by subtracting allowable deductions from gross income. One allowable deduction is for childcare expenses. 7 CFR § 273.9(d)(4). The petitioner had been eligible for this deduction for about four years but never received it because of the agency's error. In January 2013 the error was discovered and the petitioner was provided a \$1,152 FoodShare supplement to make up for benefits she was entitled to but did not receive from January 2012 through January 2013. She seeks a supplement all of the benefits she lost. I understand her frustration with losing benefits she was entitled to because of the agency's error. Nevertheless, FoodShare regulations limit the restoration of benefits lost because of an agency error to "not more than twelve months prior to whichever of the following occurred first:

- (i) The date the State agency receives a request for restoration from a household; or
- (ii) The date the State agency is notified or otherwise discovers that a loss to a household has occurred.

7 CFR § 273.17

Because the error was discovered in January 2013, the agency correctly limited the supplementation of the petitioner's benefits to those she had received in the prior 12 months, a period that began in January 2012.

### **CONCLUSIONS OF LAW**

The petitioner cannot receive a supplement for any underpayment of FoodShare that occurred more than 12 months before it was discovered.

**THEREFORE, it is**

**ORDERED**

The petitioner's 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 21st day of March, 2013

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\sMichael D. O'Brien  
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 21, 2013.

Barron County Department of Human Services  
Division of Health Care Access and Accountability