



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOP/147870

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**PRELIMINARY RECITALS**

Pursuant to a petition filed March 08, 2013, under Wis. Admin. Code §HA 3.03, to review a decision by the Public Assistance Collections Unit (PACU) - 5173 in regard to FoodShare benefits (FS), a telephonic hearing was held on May 01, 2013, at Milwaukee, Wisconsin. At the request of the Department, a hearing set for April 29, 2013 was rescheduled.

The issue for determination is whether the Department is correctly seeking recovery of \$336 in FoodShare (FS) overpayments to the petitioner during the period of August 1, 2012 to September 30, 2012, due to his failure to timely report that his daughter was no longer residing in his FS household.

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: Megan Ryan, PARIS interstate agent  
Office of the Inspector General  
1 West Wilson Street  
P.O. Box 309  
Madison, WI 53701-0309

**ADMINISTRATIVE LAW JUDGE:**

Gary M. Wolkstein  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County who receives FoodShare (FS) benefits.
2. The petitioner has a daughter, BHC who resided with the petitioner.
3. As of at least March, 2012, petitioner's daughter moved out of his household and moved to reside with her mother, [REDACTED], in the State of [REDACTED].
4. The petitioner failed to timely report as of March, 2012 or during his July, 2012 FS review that his daughter was no longer residing with him in his FS household. See Exhibits 1 – 3.
5. The Wisconsin Public Assistance Collections (PAC) Unit sent a February 13 2013 FoodShare Overpayment Notice to the petitioner stating that he received a FS overpayment of \$336 during the period of August 1, 2012 to September 30, 2012, due to his failure to report accurate household composition (his daughter no longer residing in his household). See Exhibit 6.

**DISCUSSION**

During the May 1, 2013 hearing, the Departmental representative, Megan Ryan, presented a well-documented case to clearly establish that petitioner had been overpaid FS benefits during the period of August 1, 2012 to September 30, 2012. The basis for the overpayment was that petitioner failed to timely notify the county agency that his daughter had moved from his home at least by March, 2012. Petitioner alleged that his daughter return to his home during September, 2012. The petitioner failed to report during his July, 2012 FS review that his daughter was no longer in his home. The Departmental representative documented how the FS total overpayment of \$336 had been calculated in the FS Overpayment Worksheets attached to the February 13, 2013 FS Overpayment Notice. Thus, petitioner incorrectly received FS benefits for a household of two when he was only eligible for FS benefits for one (without his daughter).

Federal regulations require state agencies to “establish a claim against any household that has received more [FoodShare] benefits than it is entitled to receive.” 7 CFR § 273.18(a). This regulation requires the agency to recover all FoodShare overpayments regardless of whose error caused the overpayment. During the hearing, the petitioner was unable to present any reliable testimony or evidence to refute the Department's testimony or evidence that he received a FS overpayment during the period in question. The Public Assistance Collection Agency correctly concluded that petitioner failed to timely report that his daughter was no longer in his FS household during the period in question, and petitioner was only eligible for FS benefits for a household of one. Accordingly, based upon the above, I conclude that the Department is correctly seeking recovery of \$336 in FoodShare (FS) overpayments to the petitioner during the period of August 1, 2012 to September 30, 2012, due to his failure to timely report that his daughter was not residing in his FS household during that period.

**CONCLUSIONS OF LAW**

The Department is correctly seeking recovery of \$336 in FoodShare (FS) overpayments to the petitioner during the period of August 1, 2012 to September 30, 2012, due to his failure to timely report that his daughter was not residing in his FS household during that period.

**THEREFORE, it is**

**ORDERED**

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 2nd day of May, 2013

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\sGary M. Wolkstein  
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 May 2, 2013.

PACU - 5173  
Public Assistance Collection Unit  
Division of Health Care Access and Accountability