



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOP/147995

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**PRELIMINARY RECITALS**

Pursuant to a petition filed March 14, 2013, under Wis. Admin. Code §HA 3.03, to review a decision by the Milwaukee Enrollment Services (MES) in regard to FoodShare benefits (FS), a telephonic hearing was held on April 10, 2013, at Milwaukee, Wisconsin.

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: Mary Hartung, Income Maintenance advanced worker  
Milwaukee Enrollment Services  
1220 W Vliet St  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Gary M. Wolkstein  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. The petitioner receives FoodShare (FS) benefits for a household of two.
3. Milwaukee Enrollment Services (MES) sent a February 26, 2013 Notice of FS Overissuance in Claim # [REDACTED] to the petitioner stating that during the period of October 1, 2011 to February 29, 2012, she had received a FS overpayment of \$1,835.00 due to the non-client error of MES failing to budget petitioner's reported earned income.

4. During the April 10, 2013 hearing, the MES representative stipulated that MES was withdrawing the FS overpayment in Claim # [REDACTED] indicated in Finding of Fact #3 above because that claim was prior to the last 12 month period for pursuing non-client overpayment error claims, and thus was not recoverable.
5. Milwaukee Enrollment Services (MES) sent a February 26, 2013 Notice of FS Overissuance to the petitioner stating that during the period of March 14, 2012 to July 31, 2012 in Claim # [REDACTED], she had received a FS overpayment of \$974.00 due to non-client error.
6. During the April 10, 2013 hearing the MES representative stipulated that: a) there were errors in the calculation and budgeting by MES of petitioner's earned income during the March 14, 2012 to July 31, 2012 period that she worked as a waitress at That's Amore; b) the petitioner was entitled to a FS earned income deduction during the FS overpayment period of March 14, 2012 to July 31, 2012; and c) MES would review the most reliable evidence of petitioner's earned income during the FS overpayment period, provide an earned income deduction, and then re-determine, re-calculate and issue a new FS overpayment notice to the petitioner for some or all of the overpayment period of March 14, 2012 to July 31, 2012.
7. The petitioner concurred with the stipulation set forth in Finding of Fact #6 above.

### CONCLUSIONS OF LAW

During the April 10, 2013 hearing, the MES representative stipulated that MES was withdrawing the FS overpayment in Claim # [REDACTED] to the petitioner stating that during the period of October 1, 2011 to February 29, 2012, she had received an overpayment of \$1,835.00 due to non-client error.

**THEREFORE, it is**

**ORDERED**

The matter is remanded to Milwaukee Enrollment Services (MES) with the following instructions: a) the petitioner was entitled to a FS earned income deduction during the FS overpayment period of March 14, 2012 to July 31, 2012; and b) MES would review the most reliable evidence of petitioner's earned income during the overpayment period, provide an earned income deduction, and then re-determine, re-calculate and issue a new FS overpayment notice to the petitioner for some or all of the overpayment period of March 14, 2012 to July 31, 2012, within 10 days of the date of this Decision.

### **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 11th day of April, 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 April 11, 2013.

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