



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOP/148302

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**PRELIMINARY RECITALS**

Pursuant to a petition filed March 27, 2013, under Wis. Admin. Code, §HA 3.03, to review a decision by Adams County Health and Human Services to recover FoodShare benefits (FS), a hearing was held on April 18, 2013, by telephone.

The issue for determination is whether petitioner was overpaid FS.

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

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

By: Mary Gruber  
Adams County Health and Human Services  
108 E. North Street  
Friendship, WI 53934-9443

**ADMINISTRATIVE LAW JUDGE:**

Brian C. Schneider  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Juneau County. She resided in Adams County until recently.
2. Petitioner received the \$200 monthly maximum FS for one person in 2012. She started a new job in June earning approximately \$2,000 per month. She did not report the job to the county. She had a review in September, 2012 and signed a review application that showed no employment income.

3. In February, 2013 after discovering the income in a state wage match, the county determined that petitioner's employment income put her over the FS gross income limit retroactive to August 1, 2012.
4. By a notice dated February 7, 2013, the county informed petitioner that she was overpaid \$1,400 in FS from August 1, 2012 through February 28, 2013. FS also were closed effective March 1, 2013.

### **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 one-person is \$1,862. Handbook, App. 8.1.1.1. Thus petitioner's earned income put her over that limit beginning August 1, 2012. Had petitioner reported the job August would have been the first month that the income would have been budgeted.

Petitioner testified that she reported the job at her review in September and a witness supported her testimony. However, petitioner also signed the review document that showed no employment. For purposes of this hearing her reporting or not reporting in September is irrelevant. FS overpayments must be recovered even if caused by agency error. Because petitioner's income was over the gross income limit for the period August 1, 2012 through February 28, 2013, any FS she received in those months were an overpayment that must be recovered.

### **CONCLUSIONS OF LAW**

Petitioner was overpaid \$1,400 in FS from August, 2012 through February, 2013 because she failed to report a job with income that put her over the FS gross income limit.

**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 23rd day of April, 2013

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\sBrian C. Schneider  
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 23, 2013.

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