



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOP/148607

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**PRELIMINARY RECITALS**

Pursuant to a petition filed April 10, 2013, under Wis. Admin. Code §HA 3.03, to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on May 08, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the Department erred in determining the petitioner is liable for a \$879 FoodShare overissuance 2/24/12 to 1/31/13.

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: Belinda Bridges  
Milwaukee Enrollment Services  
1220 W Vliet St  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

John P. Tedesco  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner applied for FS on 2/24/12.

3. When the Department processed the FS application it incorrectly input income information by indicating 39 hours per biweekly pay period rather than the 39 hours per week petitioner actually worked.
4. Petitioner was given FS from 2/24 through 1/31/13 when he actually should not have been eligible.
5. On 3/19/13 the Department sent petitioner a Notice of FS Overissuance.
6. Petitioner filed a timely appeal.

### **DISCUSSION**

The Department concedes that this is an agency error and that petitioner did nothing wrong. Petitioner also concedes that he was actually ineligible for the benefits he received. His only argument presented at the hearing was that because this was an agency error, he should not be liable to pay back the overissued sum.

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).

### **CONCLUSIONS OF LAW**

The Department is still required to recover the overissuance even though this was an undisputed agency error.

**THEREFORE, it is**

**ORDERED**

That this 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 6th day of June, 2013

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\sJohn P. Tedesco  
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 June 6, 2013.

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