



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOP/149192

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**PRELIMINARY RECITALS**

Pursuant to a petition filed May 06, 2013, under Wis. Admin. Code §HA 3.03, to review a decision by the Rock County Department of Social Services in regard to FoodShare benefits (FS), a hearing was held on June 18, 2013, at Janesville, Wisconsin.

The issue for determination is whether the county agency is correctly seeking recovery of FS overpayments to the petitioner during the period of July, 2012, through September, 2012, due to failure to timely report to the county agency household employment and earned income.

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: Laura Middleton

Rock County Department of Social Services  
1900 Center Avenue  
PO Box 1649  
Janesville, WI 53546

**ADMINISTRATIVE LAW JUDGE:**

Peter McCombs (telephonically)  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Rock County.

2. Petitioner is a FS case head who received FoodShare (FS) benefits for a household of three during the period of July, 2012, through September, 2012. Exhibits 2 and 5.
3. The county agency learned that petitioner's husband had been working at [REDACTED] Trailers on May 11, 2012, when petitioner filed a Six Month Report form (SMRF) on September 5, 2012. Exhibit 2.
4. In its employer verification, [REDACTED] [REDACTED] confirmed that petitioner's husband's employment began on May 11, 2012. Petitioner worked full-time at \$14.00 per hour. Exhibit 3.
5. The petitioner's net household income was above the net income limit of \$1,591.00 for each of the months of July, 2012, through September, 2012, and her household was therefore income ineligible for FS benefits during that period. Exhibit 5.
6. The county agency sent an April 3, 2013 Notification of FS Overissuance to the petitioner stating that she had received \$1,110.00 in FS overissuances in Claim # 4900375924 during the period of July, 2012, through September, 2012, due to failure to timely report her husband's employment and earned income to the county agency. Exhibit 3.
7. The petitioner's remaining FS overpayment was \$1,100.00 as of the April 26, 2011 hearing date.

### DISCUSSION

During the June 18, 2013 hearing, the county representative presented oral testimony and documentation demonstrating that petitioner failed to timely report to the county agency her husband's employment and earned income at [REDACTED] [REDACTED]. As a result, petitioner's husband's earned income was not budgeted as income to the FS household in determining the petitioner's FS household eligibility. The county agency established that petitioner's net household income was above the net income limit of \$1,591.00 for each of the months of July, 2012, through September, 2012, and was therefore income ineligible for FS benefits. The petitioner did not contest that she had received FS benefits during the months of July, 2012, through September, 2012. Furthermore, petitioner did not offer any evidence to refute the accuracy of the county agency's FS overpayment determination of \$1,100.00 for that overpayment period.

During the hearing, petitioner alleged that she had called the Southern Consortium to report her husband's employment a couple of weeks after he started. She further indicated that she has had numerous case workers, and is concerned that her phone call may have slipped through the cracks. However, petitioner was unable to establish that the county agency had received such communication. The county representative denied receiving such communication from the petitioner, and again claimed that the county was not made aware of the [REDACTED] [REDACTED] income until the SMRF was submitted in early September, 2012. The petitioner contended that it was unfair that the county agency was seeking recovery of the overpayment, since she had notified the respondent timely. However, controlling federal regulations require the establishment of a claim against a household for a FS overpayment regardless of whose error caused the overpayment to occur: **"The State agency shall establish a claim against any household that has received more food stamp benefits than it is entitled to receive . . . "** 7 C.F.R. § 273.18(a); see also FoodShare Wisconsin Handbook, §§ 7.3.1.9 and 7.3.1.1. Accordingly, the county agency is correctly seeking to recover the overpayments of FS benefits to the petitioner during the period of July, 2012, through September, 2012, due to failure to timely report to the county agency her employment and earned income. Even if I were to conclude that the overpayment was the result of an error on the part of the respondent, the petitioner would still be liable based on the record before me.

### CONCLUSIONS OF LAW

The county agency is correctly seeking to recover the overpayments of FS benefits to the petitioner during the period of July, 2012, through September, 2012, due to failure to timely report to the county agency her husband's employment and earned income.

**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 July, 2013

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\sPeter McCombs  
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 July 2, 2013.

Rock County Department of Social Services  
Public Assistance Collection Unit  
Division of Health Care Access and Accountability