



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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FTI/149204

PRELIMINARY RECITALS

Pursuant to a petition filed May 06, 2013, under Wis. Stat. § 49.85(4), and Wis. Admin. Code §§ HA 3.03(1), (3), to review a decision by the Dane County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on June 03, 2013, at [REDACTED], Wisconsin.

The issue for determination is whether the Department erred in issuing the tax intercept notice relating to the underlying overissuance of FS from 2008 to 2011 in the amount of \$9,594.

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: Michelle Fuhr

Dane County Department of Human Services
1819 Aberg Avenue
Suite D
Madison, WI 53704-6343

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of [REDACTED], [REDACTED].
2. Petitioner's birth mother lives in [REDACTED], [REDACTED].
3. Petitioner has never lived with her birth mother.

4. Petitioner was adopted at the age of 8 years old.
5. From 2008 to 2011 petitioner's birth mother collected FS for a household that included petitioner while petitioner was actually living in [REDACTED].
6. The Department pursued a FS overissuance case against petitioner in 2011. All notices were sent to the birth mother's address in [REDACTED]. Petitioner never received any of the notices.
7. A tax intercept notice was issued on 12/16/11 and was mailed to the birth mother's address. Petitioner never received the tax intercept notice.
8. Petitioner requested a hearing on May 6, 2013.

DISCUSSION

It is quite clear from the record in this case that petitioner was not living with her birth mother, and had not lived in Wisconsin since she was 8 years old. Petitioner was unaware of the FS overissuance case or the tax intercept until her taxes were actually intercepted in 2013. It is also clear from the record that petitioner was unaware that her birth mother was collecting FS in petitioner's name. Petitioner should not be liable for the FS overissuance. She was not part of the household.

CONCLUSIONS OF LAW

The Department erred in the issuance of the tax intercept.

THEREFORE, it is

ORDERED

That this matter is remanded to the Department with instruction that any collected amount under this tax intercept or the underlying overissuance action be returned to petitioner; and, that petitioner's name be removed from the overissuance case as a liable party. These actions must be completed within 10 days.

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 27th day of June, 2013

\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 27, 2013.

Dane County Department of Human Services
Division of Health Care Access and Accountability