



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOP/149209

PRELIMINARY RECITALS

Pursuant to a petition filed May 07, 2013, under Wis. Admin. Code §HA 3.03, to review a decision by the Milwaukee Enrollment Services ["MiLES"] in regard to FoodShare benefits ["FS"], a Hearing was held via telephone on July 10, 2013. At petitioner's request a Hearing scheduled for June 4, 2013 was rescheduled.

The issue for determination is whether the following Claim may be established against petitioner for an overpayment of FS: Claim # [REDACTED] for the time period October 2012 in the total amount of \$666.00.

There appeared at that time via telephone 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, Income Maintenance, Advanced
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

OTHER PERSON PRESENT:

[REDACTED], Income Maintenance, Advanced (observing only)

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On September 21, 2012 petitioner requested a Hearing concerning whether or his FS was correctly discontinued effective October 1, 2012; a Hearing was held on October 16, 2012; a *Decision* dated November 5, 2012 was issued; the November 5th *Decision* concluded that the it was correct to discontinue petitioner's FS effective October 1, 2012. See, DHA Case No. FOO-143990 (Wis. Div. Hearings & Appeals November 5, 2012) (DHS).
3. Petitioner received continuing benefits pending the *Decision* in DHA Case No. FOO-143990 (this means that petitioner's FS was not discontinued, as it should have been, effective October 1, 2012 and that petitioner continued to receive FS until the *Decision* was issued in DHA Case No. FOO-143990); as a result petitioner was issued a total of \$666.00 in FS that he should not have been issued.
4. MiLES established the following Claim against petitioner for an overpayment of FS: Claim # [REDACTED] for the time period October 2012 in the total amount of \$666.00.

DISCUSSION

The law provides that each person who was an adult member of the FS household when an overpayment occurred is responsible for paying the claim. 7 C.F.R. § 273.18(a)(4)(i) (2011); See also, *FoodShare Wisconsin Handbook* ["FWH"] 7.3.1.2. All FS overpayments, regardless of fault, must be collected. 7 C.F.R. § 273.18(a) (2011); See also, FWH 7.3.1.1.

The law further provides that if an agency action is upheld by a Hearing *Decision* then a Claim against the household must be established for all overpayments resulting from the continuing benefits that were received. 7 C.F.R. § 273.15(k)(1) (2011); See also, FWH 7.3.1.9.2. In this case, petitioner does not dispute that he received \$666.00 in continuing FS benefits that he otherwise would not have received, pending the Hearing *Decision* in DHA Case No. FOO-143990. Therefore, MiLES was correct to have established the overpayment.

Petitioner testified that he used the FS to put food on the table for his 4 children and his family. This may well be correct. Unfortunately, however, the law requires that petitioner repay the FS he received pending the *Decision* in FOO-143990.

CONCLUSIONS OF LAW

For the reasons discussed above, the following Claim may be established against petitioner for an overpayment of FS: Claim # [REDACTED] for the time period October 2012 in the total amount of \$666.00.

NOW, 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 12th day of July, 2013

\sSean P. Maloney
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Wayne J. Wiedenhoef, Acting Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on July 12, 2013.

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