



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FBT/149436

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**PRELIMINARY RECITALS**

Pursuant to a petition filed May 15, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a telephonic hearing was held on June 18, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether petitioner is entitled to replacement of stolen FS benefits from her EBT card.

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, IM advanced worker  
Milwaukee Enrollment Services  
1220 W Vliet St  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Gary M. Wolkstein  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County who received FoodShare (FS) benefits for herself and her son.
2. The petitioner received her May, 2013 FS benefits on her EBT card of \$282 on May 5, 2013.

3. The petitioner spent \$102.29 of those FS benefits from her EBT card at Pick N Save grocery in the afternoon of May 5, 2013.
4. At about midnight on May 5, 2013, petitioner’s purse was stolen at a night club. Petitioner had her EBT card, FS personal identification number (PIN) number, birth certificate, and Social Security card in that pursue.
5. On May 6, 2103 petitioner reported to the agency and to the Milwaukee Police that her pursue with her FS Quest electronic benefits (EBT) card had been stolen. The agency immediately put a stop on the card.
6. \$176.87 had been charged on the card in the early morning of May 6, 2013 using petitioner’s FS quest card.
7. Milwaukee Enrollment Services refused to replace the petitioner’s stolen FS benefits.

**DISCUSSION**

Beginning in 1999 the department began to provide an EBT card to FS recipients. The card allows the FS group to access FS benefits through the EBT account instead of using paper documents. See Wis. Admin. Code, §DHS 252.04(1).

In order to access the EBT account, each FS recipient receives a personal identification number (PIN) number. Also, identifying information such as Social Security number, date of birth, and mother’s maiden name are generally needed in order to change the EBT PIN number, and the benefits cannot be used without the PIN number. Information about a person’s PIN number should not be made available to anyone other than the user of the card.

Wis. Admin. Code, §DHS 252.18 discusses liability for lost FS benefits and provides in pertinent part:

**Liability for lost benefits. Benefits will not be replaced if lost as a result of the loss or theft of the EBT card and PIN up to the point in time that the recipient reports the loss to recipient customer service.** Benefits will not be replaced if lost due to fraud committed, in total or in part, by the recipient. The department shall assure the replacement of benefits lost after the recipient or representative reports to recipient customer service that the card has been lost or stolen. The department also shall assure the replacement of benefits that are lost due to system errors or malfunctions.

Under Wisconsin law stolen FS cannot be replaced if used prior to the date of the report by the FS recipient. In this case, the petitioner’s EBT card was used during the early morning of May 6, 2013, and was not reported lost to the agency until later in the day on May 6, 2013. While I found the petitioner’s testimony to be credible regarding the theft of her purse, the above law and policy do not permit replacement of stolen FS under the timeline of this case. Moreover, it was poor judgment by the petitioner to have kept all of her identification papers in her pursue so that a thief could change her PIN number and thereby access her EBT card. See Finding of Fact #4 above. Accordingly, based upon the above, I must conclude that the \$176.87 stolen from petitioner’s card cannot be replaced because they were utilized prior to the date petitioner reported the lost card.

**CONCLUSIONS OF LAW**

The agency cannot replace \$176.87 apparently stolen using petitioner’s Quest card because the act was done before petitioner reported the lost card.

**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 11th day of July, 2013

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\sGary M. Wolkstein  
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 11, 2013.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability