



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOP/149469

PRELIMINARY RECITALS

Pursuant to a petition filed May 16, 2013, under Wis. Admin. Code §HA 3.03, to review a decision by the Chippewa County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on June 25, 2013, at Chippewa Falls, Wisconsin.

The issue for determination is whether the petitioner must repay an overpayment of FoodShare.

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: Rhonda Kimmer

Chippewa County Department of Human Services
711 N. Bridge Street
Chippewa Falls, WI 54729-1877

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Chippewa County.
2. The petitioner's husband had returned to work in April 2012. The county agency did not consider his income when determining the petitioner's household FoodShare allotment.
3. The petitioner received \$2,732 more in FoodShare benefits from May through August 2012 than she would have if the agency had counted the income of the petitioner's husband.

DISCUSSION

Federal regulations require state agencies to “establish a claim against any household that has received more [FoodShare] benefits than it is entitled to receive.” 7 CFR § 273.18(a). This regulation requires the agency to recover all FoodShare overpayments regardless of whose error caused the overpayment. Federal rules require FoodShare agencies to recover claims back at least one year from when the alleged overpayment was discovered. 7 CFR § 273.18(c)(1).

FoodShare benefits depend upon income and the number of persons in the household. The agency contends that the petitioner’s household received \$2,732 more in FoodShare benefits from May through August 2012 because she failed to report her husband’s return to work in April 2012. She contends that she did report this, but that the agency did not properly record it. Whether she reported it or not is irrelevant in FoodShare matters because the Department must recover all overpayments. The petitioner does not challenge the overpayment calculation. Therefore, I find that the agency properly determined that she must repay \$2,732.

CONCLUSIONS OF LAW

The petitioner must repay a \$2,732 FoodShare overpayment she received from May through August 2012 that occurred because the agency did not consider her husband’s income, regardless of whose fault led to the agency’s not considering the income.

THEREFORE, it is

ORDERED

The petitioner's 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 9th day of July, 2013

\sMichael D. O'Brien
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 9, 2013.

Chippewa County Department of Human Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability