



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOP/150447

PRELIMINARY RECITALS

Pursuant to a petition filed July 01, 2013, under Wis. Admin. Code §HA 3.03, to review a decision by the Winnebago County Department of Human Services in regard to FoodShare benefits (FS), a telephone hearing was held on July 29, 2013.

No issue remains for determination by the administrative law judge.

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: Janet Herzberg

Winnebago County Department of Human Services
220 Washington Ave.
PO Box 2187
Oshkosh, WI 54903-2187

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Iowa County.
2. On March 12, 2012, Administrative Law Judge Nancy Gagnon issued a decision confirming, in part, the establishment of an overpayment of FS benefits to petitioner's household in the amount of \$2,266.00 from July, 2010 through September, 2011.

3. Petitioner and his adult son, Andrew [REDACTED], entered into a repayment agreement with the respondent. The terms of the agreement require that petitioner pay \$62.94 each month, and Andrew [REDACTED] pay \$36.00 each month. Andrew [REDACTED] and petitioner are current on their monthly payments, and have not been in default of any terms of the repayment agreement.
4. As of the date of hearing, approximately \$292.00 remained due and owing under the repayment agreement.

DISCUSSION

The petitioner joined his son in contesting the imposition of a state tax intercept against Andrew [REDACTED]. The hearing regarding the tax intercept was held jointly with the overpayment hearing which is the subject of the instant appeal. This hearing file was opened as an overpayment appeal, however the overpayment at issue here has already been the subject of an appeal (*see*, written decision in case no. FOP/135980, March 12, 2013), and petitioner is not seeking to appeal that prior appeal. As such, there is no overpayment issue to be determined by this ALJ.

CONCLUSIONS OF LAW

Because the petitioner has pursued an overpayment appeal in Case Fop/135980, and because petitioner is not appealing the decision in that matter, no issue remains for resolution by the ALJ.

THEREFORE, it is

ORDERED

That the petition 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 September, 2013.

\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 September 9, 2013.

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