



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOP/150597

PRELIMINARY RECITALS

Pursuant to a petition filed July 12, 2013, under Wis. Admin. Code §HA 3.03, to review a decision by the Bayfield County Human Services in regard to FoodShare benefits (FS), a hearing was held on August 27, 2013, at Washburn, Wisconsin.

The issue for determination is whether the county agency correctly included the petitioner's mother in her household when determining whether she received 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: Beulah Garcia
Bayfield County Human Services
117 East 5th St
PO Box 100
Washburn, WI 54891-0100

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Bayfield County.
2. The county agency seeks to recover \$2,501 in FoodShare provided to the petitioner from September 1, 2012, through June 30, 2013.

3. The petitioner was over 18 and under 22 years old from September 1, 2012, through June 30, 2013.
4. The petitioner and her child moved in with her mother in August 2012, but her mother was never added to her FoodShare household.

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. The amount of a FoodShare allotment depends upon income and the number of persons in the household. The petitioner had been living alone and receiving FoodShare. She became pregnant and moved in with her mother in August 2012. Although she told her worker that she had moved, she did not report that she had moved in with her mother. The county agency discovered this when she inquired about childcare benefits on May 17, 2013. After including her mother’s income, which was generally about \$1,700 higher than the \$352.60 to \$558.01 that the petitioner earned each month, the agency calculated that the petitioner was overpaid a total of \$2,501 in FoodShare from September 1, 2012, through June 30, 2013.

The petitioner testified that because she is an adult she did not believe that she had to report that she lived with her mother and was part of her household. However, FoodShare regulations specifically state that children under 22 who live with their parents are considered part of their parents’ household. 7 CFR § 273.1. The petitioner is now 21, meaning that she should have been considered part of her mother’s household throughout the period in question. She does not dispute the agency’s calculations, and I find no error in them. *See exhibit 1*. There is no evidence that she tried to deceive the agency. Nevertheless, because FoodShare rules require the agency to bring a claim against anyone who receives more FoodShare than they are entitled to, I must uphold its action.

CONCLUSIONS OF LAW

1. The county agency correctly determined that the petitioner was part of her mother’s FoodShare household because she was under 22 years old and living with her.
2. The county agency correctly determined that the petitioner must repay a \$2,501 overpayment of FoodShare that occurred from September 1, 2012, through June 30, 2013.

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 6th day of September, 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 September 6, 2013.

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