



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOP/153106

PRELIMINARY RECITALS

Pursuant to a petition filed October 23, 2013, under Wis. Admin. Code §HA 3.03, to review a decision by the Public Assistance Collection Unit in regard to FoodShare benefits (FS), a hearing was held on December 19, 2013, at Superior, 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, Room 651
Madison, Wisconsin 53703

By: Diane Peterson

Public Assistance Collection Unit
P.O. Box 8939
Madison, WI 53708-8938

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Douglas County.
2. The petitioner received \$51 in FoodShare through the State of Wisconsin in October 2012. She also received those benefits through the State of Minnesota that month.
3. The petitioner received \$185 in FoodShare through the State of Wisconsin in August 2013. She also received those benefits through the State of Minnesota that month.

4. The Department seeks to recover the \$236 in FoodShare benefits the petitioner received in Wisconsin while also receiving benefits in Minnesota.

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. A person cannot receive FoodShare from two different project areas at once. 7 CFR § 273.3(a). A project area is the jurisdiction issuing FoodShare; it can be a county, some other entity set up by the state, or the entire state. 7 CFR § 271.2.

The petitioner received FoodShare from both Wisconsin and Minnesota twice. In October 2012 she received \$51 from Wisconsin and in August 2013 she received \$185 from Wisconsin. The exact amount she received in Minnesota was not established but is irrelevant because Wisconsin cannot recover benefits issued by Minnesota. The 2012 duplicate payment occurred because of an agency error. The 2013 duplicate payment occurred because of what appeared to be an inadvertent failure by the petitioner to close her case fast enough and not because she attempted to obtain benefits for which she did not qualify. But neither party disputes that she received benefits from both states during those two months. As a result, she received an overpayment that must be repaid, regardless of whose error caused it or whether the error was intentional.

CONCLUSIONS OF LAW

The petitioner must repay FoodShare benefits she received in Wisconsin while she also received benefits in Minnesota even if the overpayment was not intentional or her fault.

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, Room 651, 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 20th day of December, 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 December 20, 2013.

Public Assistance Collection Unit
Public Assistance Collection Unit
Division of Health Care Access and Accountability