



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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOP/153817

PRELIMINARY RECITALS

Pursuant to a petition filed November 29, 2013, under Wis. Admin. Code §HA 3.03, to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on March 12, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the respondent correctly established an overpayment of FS benefits to petitioner.

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: Katherine May
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Peter McCombs (telephonically)
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. The respondent alleges an overpayment of FS benefits to the petitioner in the total amount of \$4,984.00 pursuant to claim nos.:
[REDACTED] \$3372.00; and

██████████ \$1,612.00.

- 3. Petitioner concedes liability for overpayment, which was due to an inadvertent failure to report accurate income. Exhibit 2.

DISCUSSION

The Department is required to recover all overpayments of public assistance benefits. An overpayment occurs when an FS household receives more FS than it is entitled to receive. 7 C.F.R. §273.18(a). The federal FS regulations provide that the agency shall establish a claim against an FS household that was overpaid, even if the overpayment was caused by agency error. 7 C.F.R. §273.18(a)(2)(emphasis added). Those regulations also provide, in relevant part, as follows:

- (a) Establishing claims against households. All adult household members shall be jointly and severally liable for the value of any overissuance of benefits to the household. The State Agency shall establish a claim against any household that has received more food stamp benefits than it is entitled to receive . . .

7 CFR § 273.18. The FS Handbook similarly provides that an adult a person who is 18 years old or older and a member of the food unit at the time the overpayment occurred is liable for repayment of any overissued FS benefits. FS Handbook §7.3.1.2. All nonexempt income must be budgeted in determining FS. 7 C.F.R. §273.9(b).

In a Fair Hearing concerning the propriety of an overpayment of benefits, such as this, the county agency has the burden of proof to establish that the action taken by the county was proper. Petitioner must then rebut the agency’s case and establish facts sufficient to overcome the evidence of correct action by the agency in determining the overpayment action was required.

In exhibits submitted prior to hearing, and again at hearing, petitioner acknowledged her liability and did not contest the overpayment calculation. Instead, petitioner requested a compromise of her overpayment obligation due to financial hardship. As indicated by the respondent at hearing, petitioner is advised to submit her request for a compromise of her overpayment obligation to the Public Assistance Collection Unit at:

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

CONCLUSIONS OF LAW

The respondent correctly established an overpayment of FS benefits to the petitioner in the amount of \$4,984.00.

THEREFORE, it is

ORDERED

That petitioner’s appeal is hereby dismissed.

REQUEST FOR A REHEARING

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or 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 filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as "PARTIES IN INTEREST" **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,
Wisconsin, this 11th day of April, 2014

\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 April 11, 2014.

Milwaukee Enrollment Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability