



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOP/154111

PRELIMINARY RECITALS

Pursuant to a petition filed December 11, 2013, under Wis. Admin. Code §HA 3.03, to review a decision by the Wood County Human Services - WI Rapids in regard to FoodShare benefits (FS), a hearing was held on February 20, 2014, at Hayward, Wisconsin. A hearing scheduled for January 23, 2014, was rescheduled at the petitioner's request.

The issue for determination is whether the county agency correctly determined that the petitioner received more FoodShare than she was entitled to because her husband's child was improperly included in her household when determining her benefits.

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: Beulah Garcia

Wood County Human Services - WI Rapids
320 West Grand Avenue
PO Box 8095
Wisconsin Rapids, WI 54495-8095

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Sawyer County.

2. The petitioner is an adult member of her husband [REDACTED]'s household.
3. *DHA Decision No. 154113* determined that [REDACTED]'s household received \$1,975 more in FoodShare than it was entitled from October 1, 2012, through June 30, 2012, and that he was responsible for repaying that amount.
4. The petitioner's hearing was held concurrently the hearing that resulted in *DHA Decision No. 154113*. She appeared at that hearing.

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. Those responsible for paying an overpayment include "[e]ach person who was an adult member of the household when the overpayment...occurred. 7 CFR § 273.18(a)(4)(i). The petitioner is an adult member of her husband [REDACTED]'s household. *DHA Decision No. 154113* determined that [REDACTED]'s household received \$1,975 more in FoodShare than it was entitled from October 1, 2012, through June 30, 2012, and that he was responsible for repaying that amount. The petitioner's hearing and the hearing that resulted in *DHA Decision No. 154113* were held together with the petitioner present, so she was afforded due process and had an opportunity to challenge the agency's allegations. Because she is an adult member of [REDACTED]'s household, she is responsible for repaying the overpayment affirmed in that decision.

CONCLUSIONS OF LAW

The petitioner is responsible for repaying the \$1,975 overpayment of FoodShare upheld in *DHA Decision No. 154113* because she is an adult member of the household for which that overpayment was established.

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 27th day of February, 2014

\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 February 27, 2014.

Wood County Human Services - WI Rapids
Public Assistance Collection Unit
Division of Health Care Access and Accountability