



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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOP/155187

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**PRELIMINARY RECITALS**

Pursuant to a petition filed February 03, 2014, 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 05, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the Department erred in its determination of a FS liability in claim number [REDACTED] in the amount of \$1,101 for the period from 4/1/13 to 6/30/13.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED] (with  
interpreter [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:**

John P. Tedesco  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.

2. In January 2013, petitioner submitted a six-month report form as part of a periodic FS eligibility review. On that form, petitioner claimed he was no longer working for [REDACTED] [REDACTED]. The agency requested verification. Petitioner provided verification of layoff on December 1, 2012.
3. Petitioner was found eligible for FS. On January 30, 2013, the agency sent a notice to petitioner informing him that if his income increased to above 130% of the FPL (\$1,640), he was required to report that increase within 10 days.
4. Petitioner returned to work at [REDACTED] [REDACTED] but did not inform the agency.
5. Petitioner's daughter was also employed but this was not reported to the agency.
6. The household exceeded the 130% FPL limit in February with a household income over \$3,277.41.
7. Petitioner did not report this income over the reporting limit.
8. The agency sent a notice to petitioner informing him of the overissuance on 12/18/13.
9. Petitioner filed this appeal.

### DISCUSSION

Elderly, Blind and Disabled FoodShare households without earned income must report listed changes in earned income, some unearned income amounts, address and child support obligations, within 10 days. See, *FoodShare Wisconsin Handbook*, 6.1.1. Any other FS household not within the EBD classification is subject to reduced reporting requirements, i.e., it is only required to report income changes if income exceeds 130% of the Federal Poverty Level. See, *FoodShare Wisconsin Handbook*, 6.1.1.2. Such reporting is to be done by the 10<sup>th</sup> of the month after the income has increased about 130%. Id.

The agency is required to verify reported changes in earnings, like a job loss. It appears that this occurred here as with regard to the layoff in December. But, petitioner went back to work and earned a gross earned income in February of \$2,641.56 and never told the agency he was working at all. Petitioner's daughter was working at [REDACTED] [REDACTED] [REDACTED] in January when petitioner underwent the review. In February her gross income was \$635.85. But, petitioner did not disclose this information on the SMRF.

Had petitioner reported his accurate February income, his household would have been deemed ineligible for FS and his FS benefits would have been terminated as of March 1, 2013. He would have been required to reapply or submit new pay stubs. Therefore, any allotments he received after March 1, 2013 were overissued. I also note that the record reflects gross household income well over the gross income FS eligibility limit in May and June.

I will also note that I found petitioner to be not credible during the hearing. When asked simply whether his daughter earned any money during the period of February, March or April of 2013, petitioner answered that the daughter was not and was studying. But, when confronted with the wage records from [REDACTED] [REDACTED] [REDACTED], petitioner conceded this and admitted that the daughter still works there.

### CONCLUSIONS OF LAW

The Department did not err in determining the \$1,101 overissuance of FS.

**THEREFORE, it is**

**ORDERED**

That this matter is 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 28th day of March, 2014

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\sJohn P. Tedesco  
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 March 28, 2014.

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