



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOP/155632

PRELIMINARY RECITALS

Pursuant to a petition filed February 18, 2014, under Wis. Admin. Code § HA 3.03, to review a decision by the Taylor County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on March 20, 2014, at Medford, Wisconsin.

The issue for determination is whether the petitioner is responsible for repaying an overpayment of FoodShare caused by his child's mother.

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

Taylor County Department of Human Services
540 E. College Street
Medford, WI 54451-2027

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Minnesota. .
2. The petitioner lived with his girlfriend and their child in Minnesota from October 2009 through November 2012.

3. October 23, 2009, through November 30, 2011, the petitioner's household received \$8,677 in FoodShare through a Wisconsin agency.

DISCUSSION

State agencies must "establish a claim against any household that has received more [FoodShare] benefits than it is entitled to receive." 7 CFR § 273.18(a). This federal 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 lived with his girlfriend and their child in Wisconsin before moving to Minnesota in October 2009. While in Wisconsin they began receiving FoodShare through that state. They continued receiving those benefits through Wisconsin after moving to Minnesota because the petitioner's girlfriend did not report the move despite having multiple reviews with the county agency, including one the month they moved to Minnesota, in which she was required to list her residence. From October 23, 2009, through November 30, 2011, the petitioner's household received \$8,677 in FoodShare through a Wisconsin agency. The county agency now seeks to recover this amount.

FoodShare residency requirements are not strict. States cannot impose durational requirements or require a household to live in a permanent dwelling, have a fixed address, or intend to remain in the state. But federal regulations state that a "household shall live in the State in which it files an application for participation." 7 CFR § 273.3(a). Because the petitioner's girlfriend falsely stated on her renewal that she continued to live in Wisconsin when she had taken up permanent residence in Minnesota, she was not entitled to the benefits she received while in that state. Because the petitioner was an adult member of her household throughout this period, he is responsible for repaying those benefits.

CONCLUSIONS OF LAW

The petitioner must repay an overpayment of FoodShare that occurred while he was an adult member of the household in which it occurred.

THEREFORE, it is

ORDERED

The petitioner's appeal 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

\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 March 28, 2014.

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