



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOP/156217

PRELIMINARY RECITALS

Pursuant to a petition filed March 18, 2014, 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 April 14, 2014, at Durand, 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: Tonya Allen
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 Pepin County.
2. The petitioner began working at [REDACTED] [REDACTED] on September 16, 2013. The Department did not consider her new employment when determining her November and December 2013 FoodShare allotments.

3. The petitioner received \$694 more in FoodShare than she was entitled to in November and December 2013 because the agency did not consider her income from [REDACTED] [REDACTED] when determine her benefits.

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. Recipients must report a change of circumstances within 10 days. 7 CFR § 273.12(a)2.

The amount of a FoodShare allotment depends upon net income and the number of persons in the household. The county agency contends that the petitioner received \$694 more in FoodShare than she was entitled to in November and December 2013 because she failed to report employment that began on September 16, 2013. The petitioner does not challenge the agency’s calculations but contends that she did report her new employment. I find her testimony credible. Nevertheless, because FoodShare regulations, unlike medical assistance regulations, require the agency to recover all overpayments regardless of who is at fault, I must uphold the overpayment finding.

CONCLUSIONS OF LAW

The petitioner must repay an overpayment of FoodShare that occurred in November and December 2013 even if the agency’s error caused the overpayment.

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 29th day of April, 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 April 29, 2014.

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