



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of:

[Redacted case name]

DECISION

FOP/156242

PRELIMINARY RECITALS

Pursuant to a petition filed March 22, 2014, under Wis. Admin. Code § HA 3.03, to review a decision by the Monroe County Department of Human Services ["County"] in regard to FoodShare benefits ["FS"], a Hearing was held via telephone on April 15, 2014. The Hearing for this matter was held at the same time as the Hearing for the following closely related matter concerning the same petitioner: MOP-156243.

The issue for determination is was correct to establish the following 2 Claims against petitioner for overpayments of FS in the total amount of \$1,287.00 for the time period November 1, 2012 to November 30, 2013:

- (I): Claim Number [Redacted] for the time period November 1, 2012 to February 28, 2013 in the amount of \$521.00; and,
(II): Claim Number [Redacted] for the time period March 1, 2013 to November 30, 2013 in the amount of \$766.00.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[Redacted] (not present at April 15, 2014 Hearing)
[Redacted]

Represented by:

[Redacted]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703

By: Tom Miller, ES Supervisor
Bob Uebele, ESS

Monroe County Department of Human Services
Community Services Bldg.
14301 Cty Hwy B, Box 19
Sparta, WI 54656-4509

ADMINISTRATIVE LAW JUDGE:  
Sean P. Maloney  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Monroe County, Wisconsin.
2. The County established the following 2 Claims against petitioner for overpayments of FS in the total amount of \$1,287.00 for the time period November 1, 2012 to November 30, 2013:  
(I): Claim Number [REDACTED] for the time period November 1, 2012 to February 28, 2013 in the amount of \$521.00; and,  
(II) Claim Number [REDACTED] for the time period March 1, 2013 to November 30, 2013 in the amount of \$766.00.
3. On August 27, 2012 [REDACTED] reported to the County that petitioner started a new job; the amount of income she reported was not correct (the income reported was too low); incorrect lower income was also reported by petitioner on February 1, 2013 and February 11, 2013; petitioner's employer also reported incorrect lower income to the County; petitioner consistently (every week) had overtime income that was not reported.
4. The FS overpayments in *Findings of Fact* #2, above, resulted from the fact that petitioner's total earned income from his employment was not counted when calculating the amount of FS he was entitled to during the time period in question (only part of his earned income was counted).

**DISCUSSION**

A person can be held liable for an FS overpayment and made to repay it even though the overpayment was not their fault. All FS overpayments, regardless of fault, must be collected. 7 C.F.R. § 273.18(b) (2011); See also, *FoodShare Wisconsin Handbook* ["FWH"] 7.3.1.1 & 7.3.2.1. Petitioner argues that the overpayment is not his fault because he did not know he had to report overtime income and because his employer also reported incorrect income. However, the law, as already noted, requires that all FS overpayments, regardless of fault, must be collected. Therefore, petitioner can be held liable for the FS overpayment and made to repay it even though he claims it was not his fault.

**CONCLUSIONS OF LAW**

For the reasons discussed above, petitioner is liable for the FS overpayments detailed in *Findings of Fact* #2, above, and must repay them.

**NOW, THEREFORE, it is**

**ORDERED**

that the petition for review herein be and the same 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 13th day of May, 2014

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\sSean P. Maloney  
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 May 13, 2014.

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