



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOP/156251

PRELIMINARY RECITALS

Pursuant to a petition filed March 24, 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 May 28, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether there remains any issue for determination.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



Petitioner's Representative:



Respondent:

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

By: Nadine Stankey
Public Assistance Collection Unit
P.O. Box 8939
Madison, WI 53708-8938

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ) is a resident of Milwaukee County.
2. In late 2013, the petitioner was issued a FS IPV by the Department. The IPV sanction was sustained by an ALJ after hearing.

3. As a result of the IPV finding, the Department issued a claim for overissuance of the FS funds issued related to the IPV.
4. The petitioner has petitioned for circuit court review of the IPV finding.
5. Petitioner requested hearing with regard to the claim for overissuance.

DISCUSSION

At hearing, counsel for petitioner explained that she concedes that there is no basis to contest the claim as long as the IPV remains in force. At this time, it does. Counsel explained that she filed this request for hearing to preserve her client's appeal rights with regard to the overissuance claim should the IPV be reversed in the circuit court. At the time of hearing, this ALJ denied petitioner's request to stay this instant action indefinitely pending appeal on the circuit court of the IPV matter.

On the record, the Department representative conceded and agreed that if the IPV should be reversed then the basis for the claim would also be negated and the overissuance would be reversed.

This appeared to satisfy counsel for petitioner. It would also seem that if the circuit court reverses the IPV then petitioner should petition the Department to rescind the overissuance. In the highly unlikely event that the Department denies such a request, petitioner should consider that an adverse action and should seek review from DHA.

CONCLUSIONS OF LAW

Petitioner concedes that there is presently no basis to contest the claim.

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 May, 2014

\sJohn P. Tedesco
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin \DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on May 28, 2014.

Public Assistance Collection Unit
Public Assistance Collection Unit
Division of Health Care Access and Accountability
Attorney [REDACTED] [REDACTED]