



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOP/156570

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**PRELIMINARY RECITALS**

Pursuant to a petition filed April 1, 2014, under Wis. Admin. Code, §HA 3.03, to review a decision by the Waupaca County Dept. of Social Services to recover FoodShare benefits (FS), a hearing was held on May 28, 2014, by telephone. A hearing set for April 30, 2014 was rescheduled at the petitioner's request.

The issue for determination is whether petitioner is liable for an FS overpayment paid to a group in which she was a member.

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

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

By: Kathy Hobbs  
Waupaca County Dept. of Social Services  
811 Harding Street  
Waupaca, WI 54981-2087

**ADMINISTRATIVE LAW JUDGE:**

Brian C. Schneider  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Waupaca County.
2. In 2013 petitioner received FS in a household that included her adult cousin B.M., her two children over whom B.M. has guardianship, and a third minor child. The five lived in a single-family house in which B.M.'s parents and adult brother also lived. The parents and brother were not part of petitioner's FS group. B.M. was the case head of petitioner's FS group.

3. By a notice dated March 6, 2014, the county informed B.M. that she was overpaid \$1,909 in FS from January 20 through November 30, 2013, claim no. [REDACTED], because she reported incorrectly that she paid \$825 per month rent. Petitioner was listed as a liable party because she was an adult member of the FS household.

### DISCUSSION

The Department is required to recover all FS overpayments. An overpayment occurs when an FS household receives more FS than it is entitled to receive. 7 C.F.R. §273.18(c). The federal FS regulations provide that the agency shall establish a claim against an FS household that was overpaid, even if the overpayment was caused by agency error. 7 C.F.R. §273.18(b)(3). All adult members of an FS household are liable for an overpayment. 7 C.F.R. §273.18(a)(4); FS Handbook, Appendix 7.3.1.2.

To determine an overpayment, the agency must determine the correct amount of FS that the household should have received and subtract the amount that the household actually received. 7 C.F.R. §273.18(c)(1)(ii).

In concurrent case no. FOP-156569 filed by B.M., I conclude that the county correctly determined that petitioner's FS household was overpaid. Because petitioner was an adult member of the overpaid household, she is jointly and severally liable for the repayment of it along with B.M.

### CONCLUSIONS OF LAW

Petitioner is liable for FS overpayment claim no. [REDACTED] because she was an adult member of the overpaid household.

**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 4th day of June, 2014

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\sBrian C. Schneider  
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 June 4, 2014.

Waupaca County Department of Social Services  
Public Assistance Collection Unit  
Division of Health Care Access and Accountability