



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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOP/157039

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**PRELIMINARY RECITALS**

Pursuant to a petition filed April 22, 2014, under Wis. Admin. Code §HA 3.03, to review a decision by the Dodge County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on May 21, 2014, at Juneau, Wisconsin.

The issue for determination is whether the Department erred in its determination of a FS overissuance in the amount of \$2,004 for the period from 4/1/13 to 6/30/13.

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: Jackie DeLaRosa

Dodge County Department of Human Services  
143 E. Center Street  
Juneau, WI 53039-1371

**ADMINISTRATIVE LAW JUDGE:**

John P. Tedesco  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Dodge County.
2. Petitioner's spouse was the case head of an ongoing FS case. The group consisted of Petitioner's spouse and three children in common. Petitioner was, for some period of time, out of the home

and his income was not budgeted for the group. In March 2013, petitioner moved back into the home. The agency was not notified by petitioner or his wife.

3. If the agency had budgeted petitioner's income as part of the household income, and added petitioner to the group, the group would not have been eligible for FS.
4. In May 2013, the agency and law enforcement conducted an investigation into petitioner's living situation. The agency concluded that petitioner had moved into the home at some point prior to April 1, 2013. The agency terminated FS as of July 1, 2013.
5. The agency sent a Notification of FS Overissuance on April 17, 2014 indicating liability for \$2,004 of overissued FS from 4/1/13 to 6/30/13.

### **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).

At the time of hearing, petitioner conceded that he returned to the home in March 2013. He also explained that he had misunderstood the basis of the overissuance claim. By the conclusion of the hearing, petitioner appeared to understand that the overissuance claim only pertained to April through June 2013. He did not dispute that he was living in the household during that time.

Petitioner disputed that \$2,004 was the appropriate amount to be paid back. He did not believe that \$2,004 was granted in FS benefits to the family during that period. But the allotment during each of these months was \$668 according to the evidence in the record. This comports with the finding of \$2,004 as an overissued amount. After seeing the exhibits reflecting the allotments petitioner conceded that the amount was correct. At the close of the hearing, petitioner stated that he understood the basis of the overissuance claim. I do as well and can find no error in the agency's action.

### **CONCLUSIONS OF LAW**

The Department did not err in determining the overissuance claim.

**THEREFORE, it is**

**ORDERED**

That this 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 5th day of June, 2014

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\sJohn P. Tedesco  
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 5, 2014.

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