



FH  
[REDACTED]

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

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In the Matter of:

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOP/157511

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**PRELIMINARY RECITALS**

Pursuant to a petition filed May 07, 2014, under Wis. Admin. Code §HA 3.03, to review a decision by the Milwaukee Enrollment Services ["MiLES"] in regard to FoodShare benefits ["FS"], a Hearing was held via telephone on June 4, 2014.

The issue for determination is whether it was correct to establish the following 3 Claims against petitioner for overpayments of FS for the time period November 1, 2012 to March 31, 2014 in the total amount of \$2,041.00:

- (I) Claim Number [REDACTED]; November 1, 2012 to June 30, 2013; \$1,308.00;
- (II) Claim Number [REDACTED]; July 1, 2013 to March 31, 2014; \$611.00; and,
- (III) Claim Number [REDACTED]; August 13, 2012 to August 31, 2012; \$122.00.

There appeared at that time via telephone 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: Katherine May, HSPC Senior  
Milwaukee Enrollment Services  
1220 W Vliet St, Room 106  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Sean P. Maloney  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County, Wisconsin.
2. The County established the following 3 Claims against petitioner for overpayments of FS for the time period November 1, 2012 to March 31, 2014 in the total amount of \$2,041.00:
  - (I) Claim Number [REDACTED]; November 1, 2012 to June 30, 2013; \$1,308.00;
  - (II) Claim Number [REDACTED]; July 1, 2013 to March 31, 2014; \$611.00; and,
  - (III) Claim Number [REDACTED]; August 13, 2012 to August 31, 2012; \$122.00.
3. Petitioner's household had income which was not properly budgeted by the County; this caused the overpayments for Claim Number [REDACTED] and Claim Number [REDACTED].
4. Petitioner received FS from the both the State of Wisconsin and the State of [REDACTED] in August 2012; this caused the overpayment for Claim Number [REDACTED].
5. The FS overpayment in *Finding of Fact #2*, above, resulted from the fact that the income of petitioner's household was not budgeted correctly when calculating FS and from the fact that petitioner received FS from the both the State of Wisconsin and the State of [REDACTED].

**DISCUSSION**

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. Therefore, a person can be held liable for an FS overpayment and made to repay it even though the overpayment was not their fault.

Petitioner does not deny that her household income was not budgeted correctly when calculating FS and that this caused the overpayments for Claim Number [REDACTED] and Claim Number [REDACTED]. Instead, she argues that the overpayments are not her fault and that she should not have to repay them. She testified that she sent in all her check stubs and should not be responsible for the overpayments. Petitioner's argument is most understandable. However, as noted above, all FS overpayments, regardless of fault, must be collected. Therefore, petitioner may be made to repay the above overpayments even though they were not her fault.

In regard to overpayment Claim Number [REDACTED] petitioner argues that she did not get FS in both Wisconsin and [REDACTED] during August 2012. However, documentation provided by the County, from both Wisconsin and [REDACTED], shows otherwise.

**CONCLUSIONS OF LAW**

For the reasons discussed above, petitioner is liable for the FS overpayments detailed in *Finding 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 11th day of June, 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 June 11, 2014.

Milwaukee Enrollment Services  
Public Assistance Collection Unit  
Division of Health Care Access and Accountability