



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOP/157523

PRELIMINARY RECITALS

Pursuant to a petition filed May 07, 2014, under Wis. Admin. Code §HA 3.03, to review a decision by the Lincoln County Department of Social Services in regard to FoodShare benefits (FS), a telephone hearing was held on June 04, 2014.

The issue for determination is whether the petitioner must repay an overpayment of FoodShare.

There appeared at that time 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: Irene Lehman

Lincoln County Department of Social Services
607 North Sales Street
Suite 201
Merrill, WI 54452

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Lincoln County.
2. The county agency alleges that the petitioner was overpaid \$3,602.00 in FoodShare benefits from June, 2013, through January, 2014, because it failed to correctly budget her adult child's income.
3. Petitioner's son turned eighteen years old on November 11, 2012.

4. The petitioner's son earned between \$10.00 and \$11.00 per hour during the overpayment period, and this income was not reported to the respondent.

DISCUSSION

The petitioner resides in a FS household of four, including her adult son. FoodShare rules state that "[h]ousehold income shall mean all income from whatever source excluding only items specified in paragraph (c) of this section." 7 CFR § 273.9(b). Paragraph (c) excludes the income of high school students living in the household, but only until they turn 18. 7 CFR § 273.9(c)(7). I have reviewed the overpayment calculations and do not find any error, nor did petitioner identify any issues regarding the respondent's calculations.

I understand the hardship that the overpayment recoupment causes the petitioner. Nevertheless, federal regulations require state agencies to "establish a claim against any household that has received more food stamp benefits than it is entitled to receive." 7 CFR § 273.18(a). This means that recipients must repay overpayments even when the fault rests solely with the county agency. Here, the petitioner had an affirmative obligation to report her son's income so long as he was part of her FS household. Therefore, I must uphold the agency's finding that the petitioner must repay the \$3,602.00 in FoodShare benefits she was not entitled to receive.

CONCLUSIONS OF LAW

The county agency correctly determined that the petitioner must repay an overpayment of FoodShare that occurred when the agency failed to count her adult son's income when determining her allotment.

NOW, THEREFORE, it is ORDERED

That the petition herein be and the same hereby 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 1st day of July, 2014.

\sPeter McCombs
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin \DIVISION OF HEARINGS AND APPEALS

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Madison, WI 53705-5400

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The preceding decision was sent to the following parties on July 1, 2014.

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