



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOP/157756

PRELIMINARY RECITALS

Pursuant to a petition filed May 20, 2014, under Wis. Admin. Code §HA 3.03, to review a decision by the Rock County Department of Social Services in regard to FoodShare benefits (FS), a hearing was held on June 09, 2014, at Janesville, Wisconsin.

The issue for determination is whether petitioner’s appeal is timely.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



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Respondent:

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

By: Sandra Williams
Rock County Department of Social Services
1900 Center Avenue
PO Box 1649
Janesville, WI 53546

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ) is a resident of Rock County.
2. The county agency notified the petitioner on January 24, 2014, that it would seek to recover a \$285.00 overpayment of FoodShare benefits that allegedly occurred from December 1, 2013, through December 31, 2013. Exhibit 3.

3. The petitioner appealed her FoodShare overpayment on May 20, 2014. Exhibit 1.

DISCUSSION

Federal regulations require state agencies to “establish a claim against any household that has received more [FoodShare] benefits than it is entitled to receive.” 7 CFR § 273.18(a). The county agency notified the petitioner on January 24, 2014, that it would seek to recover a \$285.00 overpayment of FoodShare that allegedly occurred from December 1, 2014, through December 31, 2014. Exhibit 3.

FoodShare recipients must appeal negative decisions within 90 days of the date of the decision or the date that the decision takes effect, whichever is later. Wis. Admin. Code § HA 3.05(3). If an appeal is filed late, the Division of Hearings and Appeals loses its legal authority to consider the matter and must dismiss it. The petitioner first filed an appeal of the FoodShare overpayment finding on May 20, 2014, or 117 days later. Because she did not appeal the agency’s decision within 90 days, I have no jurisdiction to consider it.

CONCLUSIONS OF LAW

The Division of Hearings and Appeals has no jurisdiction to consider the petitioner’s FoodShare appeal because it is untimely.

THEREFORE, it is

ORDERED

The petitioner's 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 18th 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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The preceding decision was sent to the following parties on July 18, 2014.

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