



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOP/159824

PRELIMINARY RECITALS

Pursuant to a petition filed August 14, 2014, under Wis. Admin. Code §HA 3.03, to review a decision by the Grant County Department of Social Services in regard to FoodShare benefits (FS), a hearing was held on September 02, 2014, at Lancaster, Wisconsin.

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

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: Michelle Fishnick

Grant County Department of Social Services
Hwys 35 and 61 South
PO Box 447
Lancaster, WI 53813

ADMINISTRATIVE LAW JUDGE:

Peter McCombs (telephonically)
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Grant County.
2. The Department seeks to recover \$2,233.00 in FoodShare benefits she received from April, 2014, through July, 2014.
3. At her April FS telephone review, petitioner reported that no one in her home was working.

4. In June, the respondent received notification that petitioner's HUD rent obligation would be increasing due to petitioner's report of household income pertaining to her husband's employment. FS requested employment verification, which subsequently verified that petitioner's husband commenced employment on March 31, 2014, and his first paycheck was received April 11, 2014.
5. Petitioner's husband was working throughout the period in question.

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). This regulation requires the agency to recover all FoodShare overpayments regardless of whose error caused the overpayment. The amount of a FoodShare allotment depends upon net income and the number of persons in the household. The county agency contends that the petitioner received \$2,233.00 more in FoodShare than she was entitled to from April, 2014, through July, 2014, because she failed to report that her husband had commenced employment on March 31, 2014.

The petitioner testified that she and her husband were having problems then, and he was in and out of the house. She did not know that her husband had started working, but concedes that she should have reported this. The petitioner further responded that she assumed that since her husband's employment was reported to HUD, FS would also be aware of it. She asserts that there was never any intention to hide this employment. The respondent replies that the HUD report was after the April 15, 2014 telephonic FS review. I note that, even if I were to find that HUD's knowledge of petitioner's increased household earned income could be imputed to the respondent, that agency error would still be recoverable.

The county agency submitted a good deal of documentation establishing the basis for the overpayment and showing how the overpayment was calculated. I have reviewed the calculations, and have found no error. The agency's documentation establishes by the preponderance of the evidence that the petitioner did not timely report her husband's employment. As a result, she received FoodShare benefits that she was not entitled to and must now repay.

CONCLUSIONS OF LAW

The county agency correctly seeks to recover \$2,233.00 in FoodShare that the petitioner received from April, 2014, through July, 2014, because she failed to timely report accurate household income.

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 10th day of October, 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 October 10, 2014.

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