



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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOP/160156

PRELIMINARY RECITALS

Pursuant to a petition filed August 25, 2014, under Wis. Admin. Code §HA 3.03, to review a decision by the [REDACTED] Department of Social Services in regard to FoodShare (FS) benefits, a hearing was held on September 18, 2014, at Lancaster, Wisconsin.

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

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: Katie Grinnell

[REDACTED] 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 [REDACTED] and at all times material hereto received FS benefits.
2. The petitioner failed to timely report household income for KJ (employed by [REDACTED] [REDACTED]) and AMJ (employed by [REDACTED]).

3. The county agency seeks to recover \$4,495.00 in FoodShare provided to the petitioner from November 1, 2013, through July 31, 2014.

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 income and the number of persons in the household. The petitioner had been receiving FS benefits from at least November, 2013, through July 31, 2014.

The respondent established that KJ started his employment at [REDACTED] on August 25, 2014, and received his 1st paycheck in September of 2013. Petitioner should have reported this employment by the 10th of the following month per the instructions in a notice that was mailed on September 5, 2013, which would have provided until 10/10/13 to report this change to affect November FS benefits. If petitioner had reported this employment, petitioner’s FS household would have not been eligible for Foodshare.

The petitioner did not refute the specific mathematics of the overpayment, but argued that she has historically provided her income information annually, since it is self-employment income. She also stated that there was some confusion as to whether AMJ was still part of her FS household.

However, FS regulations specifically require that all household income be reported, including changes in household income. The petitioner does not dispute the agency’s calculations, and I find no error in them. There is no evidence that she tried to deceive the agency. Nevertheless, because FoodShare rules require the agency to bring a claim against anyone who receives more FoodShare than they are entitled to, regardless of intent or fault, I must uphold its action.

CONCLUSIONS OF LAW

1. The county agency correctly determined that the petitioner failed to report accurate household income.
2. The county agency correctly determined that the petitioner must repay an overpayment of FoodShare that occurred from November 1, 2013, through July 31, 2014.

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 23rd 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 23, 2014.

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