



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOP/160390

PRELIMINARY RECITALS

Pursuant to a petition filed September 05, 2014, under Wis. Admin. Code §HA 3.03, to review a decision by the Calumet County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on October 06, 2014, at Chilton, Wisconsin.

The issue for determination is whether the agency erred in its determination of liability for a FS overissuance in the amount of \$648.

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: Karla Bartel

Calumet County Department of Human Services
206 Court Street
Chilton, WI 53014-1198

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Calumet County.
2. Petitioner applied for FS on 1/6/14. Following an interview on 1/14/14, the agency requested income verification.

3. The agency received an employer verification form dated 1/24/14. The agency used that form as a basis to establish eligibility and the monthly allotment. \$990 was the income that was budgeted for the FS household and FS was opened for petitioner.
4. On 1/27/14, the agency sent a notice to petitioner informing her of her duty to report if her income exceeded \$1,245.
5. In July 2014, the agency received a wage watch that indicated a discrepancy between what was reported by the employer to the state and what was budgeted for petitioner.
6. The agency sought employer verification and the employer reported wages to the agency that exceeded the reporting requirement for January through June 2014.
7. The agency issued a notice on August 25, 2014 indicating petitioner's liability for a \$648 overissuance for the period from 1/6/14 to 6/30/14.
8. Petitioner filed a timely request for hearing.

DISCUSSION

The Department is required to recover all FS overpayments. An overpayment occurs when an FS household receives more FS than it is entitled to receive. 7 C.F.R. §273.18(c). The federal FS regulations provide that the agency shall establish a claim against an FS household that was overpaid, even if the overpayment was caused by agency error. 7 C.F.R. §273.18(b)(3). All adult members of an FS household are liable for an overpayment. 7 C.F.R. §273.18(a)(4); FS Handbook, Appendix 7.3.1.2.

To determine an overpayment, the agency must determine the correct amount of FS that the household should have received and subtract the amount that the household actually received. 7 C.F.R. §273.18(c)(1)(ii).

An FS household is required to report an increase in income within 10 days if the increase causes income to go above 130% of poverty. Handbook, App. 8.1.1.1.

Petitioner does not dispute the income attributed to her. She simply argued that she provided information when the agency asked for it. She also explained that she did not understand the various notices or her obligations.

The agency must attempt to recover overissued FS. The only question is whether petitioner received more than she should have gotten. The record is clear that she did. I regret that she did not understand her reporting obligations, but that does not mean that she does not have to give back what she should not have gotten in the first place.

CONCLUSIONS OF LAW

The agency met its burden to establish the overpayment.

THEREFORE, it is **ORDERED**

That this matter 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 30th day of October, 2014

\sJohn P. Tedesco
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 30, 2014.

Calumet County Department of Human Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability