



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOP/160786

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**PRELIMINARY RECITALS**

Pursuant to a petition filed September 22, 2014, under Wis. Admin. Code, §HA 3.03, to review a decision by the Calumet County Dept. of Human Services to recover FoodShare benefits (FS), a hearing was held on October 22, 2014, by telephone.

The issue for determination is whether petitioner was overpaid FS because she failed to report an increase in income.

**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 Dept. of Human Services  
206 Court Street  
Chilton, WI 53014-1198

**ADMINISTRATIVE LAW JUDGE:**

Brian C. Schneider

Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Calumet County.
2. Petitioner receives FS for herself and one child. In early 2014 the FS were based upon \$753 per month earned income and additional unearned income.
3. The county received a state wage match showing that petitioner's earned income increased in the first quarter, 2014. It obtained actual income from petitioner's two employers.

4. By two notices dated September 15, 2014, the county informed petitioner that she was overpaid a total of \$873 in FS between March 1 and June 30, 2014 because she failed to report an increase in income, claim nos. [REDACTED] and [REDACTED]. The county used actual income received each month to determine what petitioner should have received in FS compared to what she actually received.

### 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).

Petitioner testified during the hearing that she thought the county's income calculations were off. However, the calculations were taken directly from reports prepared by the employers. After the hearing petitioner contacted me and said that she had checked with the employers and the amounts were correct; she mistakenly thought that take-home pay was used instead of gross income. The gross income figures used by the county were correct.

I conclude that the overpayment was determined correctly. Petitioner failed to report when her income rose above \$1,627.50 per month, and as a result she was overpaid FS. See the November 19, 2013 notice that told her to report an increase in income above that amount. Petitioner stated that she is not able to pay that amount, but at this point the only issue before me is whether the claims were determined correctly; payment issues are dealt with by the Public Assistance Collection Unit.

### CONCLUSIONS OF LAW

The county correctly determined that petitioner was overpaid \$873 in FS between March and June, 2014.

**THEREFORE, it is**

**ORDERED**

That the petition for review herein be and the same is hereby 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 28th day of October, 2014

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\sBrian C. Schneider  
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 28, 2014.

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