



FH

Redact

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

In the Matter of

[Redacted]
Redact
[Redacted]

DECISION

FOP/160790

PRELIMINARY RECITALS

Pursuant to a petition filed September 23, 2014, under Wis. Admin. Code, §HA 3.03, to review a decision by the Jefferson County Dept. of Human Services to recover FoodShare benefits (FS), a hearing was held on December 17, 2014, by telephone. Hearings set for October 22 and November 13, 2014 were rescheduled at the petitioner's request.

The issue for determination is whether the county correctly determined an FS overpayment.

PARTIES IN INTEREST:

Petitioner:

[Redacted]
Redact
[Redacted]

Respondent:

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

By: Rose Englehart
Jefferson County Dept. of Human Services
874 Collins Rd.
Jefferson, WI 53549

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [Redacted]) is a resident of Rock County. She formerly resided in Jefferson County.
2. During the period 2012 through 2014 petitioner received FS as part of a five-person household. During that time she reported income, usually her own, but for many months her husband's income was not reported or budgeted.

3. The county discovered the missing income when it received a cross-match from the Dept. of Labor, Industry, and Human Relations (DILHR). The county obtained actual income from both individuals' employers, and determined how much FS the household would have received had the income been budgeted correctly.
4. By notices dated June 26, 2014, the county informed petitioner that the household was overpaid \$1,320 in FS from October 1 through December 31, 2012, claim no. [Redact], \$1,645 from June 24 through December 31, 2013, claim no. [Redact], and \$1,949 from January 1 through May 31, 2014, claim no. [Redact].

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 acknowledged that there was some income that was unreported, particularly in 2012. She testified that she was sure she reported that she returned to work in June, 2013, and reviewing the history I find that she did report her return to work then. June and July, 2013 notices include petitioner's employment at [Redact] in the FS budget. The problem is that her husband went to work at [Redact] in August, 2013, and that income was not reported.

In November, 2013, a notice was issued increasing FS to \$750 per month based upon zero income. However, petitioner still was working for [Redact] during late 2013 and into 2014. The household continued to receive \$750 per month FS until May, 2014 although both spouses were working. I am uncertain why the income was removed in November, 2013, but it is clear that there was an error. I note again that if the error was made by the agency, it still must recover the overpayment.

I reviewed the calculation of the three overpayment periods and I find no error. Petitioner pointed out no specific errors either. I thus conclude that the county correctly determined the overpayments at issue in this appeal.

CONCLUSIONS OF LAW

Petitioner's household was overpaid total of \$4,914 in FS from October, 2012 through May, 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 22nd day of December, 2014

\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 December 22, 2014.

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