



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[Redacted]
[Redacted]
Redact

DECISION

FOP/161719

PRELIMINARY RECITALS

Pursuant to a petition filed November 03, 2014, under Wis. Admin. Code §HA 3.03, to review a decision by the Douglas County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on December 17, 2014, at Superior, Wisconsin.

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

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[Redacted]
[Redacted]
Redact

Respondent:

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

By: Tom Ostrander

Douglas County Department of Human Services
1316 North 14th Street
Suite 400
Superior, WI 54880

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. The petitioner (CARES # [Redacted]) is a resident of Douglas County.
2. The county agency seeks to recover \$1,044 in FoodShare that the petitioner received from January 1, 2014, through June 30, 2014.

3. The petitioner began working in November 2013. He did not report this to the county agency. If he had reported it, his FoodShare would have fallen from \$189 to \$15 per month.

DISCUSSION

The amount of FoodShare one receives depends upon household size and net income. A recipient must report any change in income large enough to affect benefits within 10 days. Agencies must then act on that change the month after it is reported. 7 CFR § 273.12(a)2 and (c)(2). The petitioner had been homeless and unemployed, which allowed him to receive \$189 in FoodShare each month, the maximum amount for a single-person household. In November 2013, he began working but did not report this, so he continued receiving the maximum allotment. If he had reported his new income, beginning in January 2014, he would have received only \$15 per month. (He does not challenge the agency's calculations.)

State FoodShare agencies must "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 overpayments, regardless of whose error caused the overpayment. The agency seeks to recover the additional \$1,044 in FoodShare he received from January through June 2014 because he did not report the change of income. He admits that he never reported this change but states that he lost his card and someone else used it without his permission. He suspects it was his former girlfriend or a former roommate because they both knew his personal identification number. Neither admits this.

I am skeptical of his story, but even if it is true, it does not relieve his obligation to repay the overpayment. Regardless of who used the benefits, he is the one who received them, and, as he acknowledges, he was not entitled to them. If he had done what he was required to do, report his employment, he would not have received the benefits, and no one could have used the card. Nor could anyone have used the card if he had reported it missing. Then the benefits would have remained unused, allowing him to return them and satisfy any overpayment, even after he failed to report his new income. The agency correctly seeks to recover the overpayment.

CONCLUSIONS OF LAW

The petitioner must repay an overpayment of FoodShare that occurred because he failed to report employment to the county agency.

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 19th day of December, 2014

\sMichael D. O'Brien
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 19, 2014.

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