



FH

Redact

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

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In the Matter of:

Redact

DECISION

FOP/161722

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**PRELIMINARY RECITALS**

Pursuant to a petition filed November 4, 2014, under Wis. Admin. Code § HA 3.03, to review a decision by the Dane County Department of Human Services ["County"] in regard to FoodShare benefits ["FS"], a Hearing was held via telephone on November 25, 2014.

The issue for determination is whether it was correct to establish the following Claim against petitioner for an alleged overpayment of FS: Claim Number Redact for the time period April 2014 to September 2014 in the total amount of \$769.00.

There appeared at that time via telephone the following persons:

**PARTIES IN INTEREST:**

Petitioner:

Redact

Respondent:

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

BY: Megan Thurston, Overpayment Specialist  
Dane County Department of Human Services  
1819 Aberg Avenue  
Suite D  
Madison, WI 53704-6343

**ADMINISTRATIVE LAW JUDGE:**

Sean P. Maloney  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [Redact]) is a resident of Sauk County, Wisconsin.
2. The Count established the following Claim against petitioner for an overpayment of FS: Claim Number [Redact] for the time period April 2014 to September 2014 in the total amount of \$769.00.
3. The FS overpayment in *Findings of Fact #2*, above, allegedly resulted because petitioner failed to report earnings from her work at [Redact] and that income was not included in FS calculations during the time period in question.
4. On March 7, 2014 petitioner started working at [Redact]; she injured her back in June 2014 and her June 12, 2014 paycheck was her last income from [Redact].

**DISCUSSION**

The FS program has eligibility criteria based on both gross and net<sup>1</sup> incomes. see, 7 C.F.R. § 273.9(a) (2011); *FoodShare Wisconsin Handbook* ["FWH"] 1.1.4 & 4.3.1. For purposes of FS eligibility the income of all members of an FS household is counted.<sup>2</sup> 7 C.F.R. §§ 273.9(a)intro. & (b)intro. (2011); *FoodShare Wisconsin Handbook* ["FWH"] 4.3.1.

Petitioner testified credibly that she injured her back in June 2014 and did work at [Redact] after that time. Further, documentation in the record of this matter shows that her June 12, 2014 paycheck was her last income from [Redact]. Therefore, the alleged overpayment in this matter cannot be sustained and must be reversed.

**CONCLUSIONS OF LAW**

For the reasons discussed above, the alleged overpayment detailed in *Findings of Fact #2*, above, must be reversed.

**NOW, THEREFORE, it is**

**ORDERED**

That this matter be REMANDED to the County and that, within 10 days of the date of this *Decision*, the County not establish the following claim against petitioner for an alleged overpayment of FS and send a

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<sup>1</sup> Certain specified deductions from gross income are allowed when calculating net income for FS purposes. The only allowed deductions are: standard deduction; earned income deduction; excess medical deduction; dependent care deduction; child support deduction; homeless shelter deduction; excess shelter deduction; and, standard utility allowance. No other deductions are allowed. 7 C.F.R. § 273.9(d) (2011); FWH 4.6.1., et. seq.; See also, FWH 8.1.1.2.

<sup>2</sup> When income is received weekly it is multiplied by 4.3 to get monthly income. 7 C.F.R. § 273.9(c)(2)(i) (2011). This is because there are, on average, 4.3 weeks in a month (52 weeks per year divided by 12 months per year).

letter to petitioner stating that it has done this: Claim Number Redact for the time period April 2014 to September 2014 in the total amount of \$769.00.

### 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 11th day of December, 2014

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\sSean P. Maloney  
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 11, 2014.

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