



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Redact

DECISION

FOP/161983

PRELIMINARY RECITALS

Pursuant to a petition filed November 13, 2014, under Wis. Admin. Code, §HA 3.03, to review a decision by Milwaukee Enrollment Services to recover FoodShare benefits (FS), a hearing was held on December 9, 2014, by telephone.

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

PARTIES IN INTEREST:

Petitioner:

Redact

Respondent:

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

By: Jose Silvestre
Milwaukee Enrollment Services
1220 W. Vliet St.
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # Redact) is a resident of Milwaukee County.
2. Petitioner received FS for a one-person household in 2013. Prior to February, 2013, the agency budgeted unemployment compensation (UC) as petitioner's only income. On January 30, 2013, petitioner filed a six-month report form showing that the UC ended in January. The agency took the UC out of petitioner's FS budget. Petitioner did not report any new income on the report form.

3. From February through July, 2013, petitioner received the \$200 maximum FS amount based upon zero income.
4. In 2014 the agency discovered that petitioner had worked at two different jobs during the first few months of 2013. It obtained income information from the two employers, and determined that petitioner was overpaid FS because FS would have been lower if the income had been budgeted.
5. By a notice dated October 1, 2014, the agency informed petitioner that he was overpaid \$1,137 in FS from February 1 through July 31, 2013, claim no. Redact, due to failing to report income from employment.

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).

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).

As noted, after petitioner filed his six-month report all income was removed from his FS budget. The notice sent to him on February 4, 2013 stated, under the heading "Your Household's Reported Income and Bills," that "We have no income on file for your household." Petitioner testified that when he filed the report form he was not working yet, but the agency received information that petitioner started working at Sears on January 7, 2013, well before he filed the report form. Furthermore, the February 4 notice should have given petitioner reason to contact the agency when he did start receiving income, but the record shows no contact from petitioner to the agency between February 1, 2013 and October, 2014.

Petitioner testified that he sent in pay stubs from Sears. No pay stubs were ever scanned into the computer record from Sears or from the second job at Oasis. I cannot find that petitioner reported the jobs. I thus must conclude that the overpayment due to client error was determined correctly.

CONCLUSIONS OF LAW

The agency correctly determined that petitioner was overpaid FS from February through July, 2013 because he did not report two jobs, and the income from the jobs would have resulted in lower FS for petitioner.

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 15th 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 15, 2014.

Milwaukee Enrollment Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability