



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Redact
Redact
Redact

DECISION

FOP/161498

PRELIMINARY RECITALS

Pursuant to a petition filed October 27, 2014, under Wis. Admin. Code §HA 3.03, to review a decision by the Lafayette County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on December 11, 2014, at Darlington, Wisconsin.

The issue for determination is whether the agency was correct in its determination of liability for the FS overpayment claim Redact.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

Redact
Redact
Redact

Respondent:

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

By: Redact

Lafayette County Department of Human Services
627 Main Street
Darlington, WI 53530

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # Redact) is a resident of Lafayette County.
2. Redact and Redact are spouses. They are in a household with 2 children.
3. When Redact applied for benefits, the agency did not budget income for her husband Redact. The case underwent a review in March 2013. No income was reported for Redact.

4. [Redacted] became employed in November. His income was not reported.
5. The agency issued a notice indicating petitioner's liability for a MA overpayment in claim 1900413891 in the amount of \$696.
6. The agency issued a notice indicating petitioner's liability for a FS overpayment claim in the amount of \$1,652 in claim number [Redacted].
7. Petitioner appealed.

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).

An FS household is required to report an increase in income within 10 days.

In this case, petitioner concedes that [Redacted]'s income was not reported. Petitioner's rationale was that this was temporary work and not a permanent job "It could be here one day and not the next." This violated the financial reporting rules as all available income must be reported – not merely income derived from permanent jobs.

Petitioner also argued that the agency's determination of the overpayment amount was in error. Petitioner failed to make a cogent argument relating to this claim, however. Petitioner claimed that the agency's determination of income for [Redacted] for July, August, and September was overstated. But, those months are not within the overpayment period and are irrelevant here. She made no argument regarding other months. Petitioner was given the opportunity to elaborate on this argument with specificity and to submit documentation on her behalf with regard to this argument following the hearing. Petitioner did not do so. Based on the record and documents submitted, the overpayment determination is correct.

CONCLUSIONS OF LAW

Petitioner is liable for the overpayment as set forth in the findings of fact.

THEREFORE, it is

ORDERED

That this 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 8th day of January, 2015

\sJohn P. Tedesco
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 January 8, 2015.

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