



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FTI [REDACTED]

PRELIMINARY RECITALS

Pursuant to a petition filed November 20, 2014, under Wis. Stat. § 49.85(4), and Wis. Admin. Code §§ HA 3.03(1), (3), to review a decision by the Public Assistance Collection Unit in regard to FoodShare benefits (FS), a hearing was held on April 15, 2015, at Green Bay, Wisconsin. Previously scheduled hearings were rescheduled at the parties' requests.

The issue for determination is moot as matter of fact and law, because the Department has agreed to rescind the underlying FS overpayment liability of petitioner and the related tax intercept action.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Kristine DeBlare
Public Assistance Collection Unit
P.O. Box 8939
Madison, WI 53708-8938

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Brown County.

2. The respondent asserted that petitioner was liable for an overpayment of FS benefits (claim no. [REDACTED]) due to petitioner's inclusion in petitioner's sister's FS household during the period of March, 2013-September, 2013. Exhibit 3.
3. Petitioner moved to North Carolina in April, 2013.
4. The respondent amended the duration and amount of FS overpayment claim no. [REDACTED], and removed petitioner as a liable party. Exhibit 4.

DISCUSSION

At an initial hearing in the instant case, the respondent consented to an adjournment to allow the petitioner an opportunity to obtain and provide corroborative evidence of her North Carolina residency. The petitioner provided that information, and the respondent revised its initial position as follows:

The state received the [REDACTED] enrollment verification for child, [REDACTED], which states that [REDACTED] withdrew/transferred from their school on 4/26/2013 to relocate to North Carolina. This is consistent with the verification from the North Carolina school that was presented at the hearing stating that [REDACTED] had enrolled in their school on 5/7/2013. Upon review of the case – [REDACTED] whose primary person is [REDACTED], the case that the overpayment was issued in, [REDACTED] filed a six mother report form (SMRF) on April 29, 2013, after [REDACTED] was withdrawn/transferred from the Wisconsin school district, which would have been required to be reported on her six month report form.

Therefore the state is willing to adjust the overpayment time period from the original claim of 3/2013-9/2013, down to 6/2013-9/2013 and adjust the original claim amount from 2,282.00 to 1,304.00. We are also willing to remove [REDACTED] as a liable individual from the claim as she was not in the household during the period of overpayment.

Exhibit 4.

CONCLUSIONS OF LAW

The respondent has agreed to rescind the underlying FS overpayment liability of petitioner and the related tax intercept action pertaining specifically to the petitioner, related to FS overissuance claim no. [REDACTED].

THEREFORE, it is

ORDERED

In accordance with the respondent's written submission, this matter is remanded to the respondent with instructions to rescind the petitioner's liability for FS overissuance claim no. [REDACTED]. The respondent shall likewise rescind the state income tax refund interception related to FS overissuance claim no. [REDACTED], as entered against petitioner. These actions shall be completed within 10 days of the date of this Decision.

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 30th day of April, 2015.

\sPeter McCombs
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 April 30, 2015.

Public Assistance Collection Unit
Public Assistance Collection Unit