



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[Redacted]
Redact
[Redacted]

DECISION

FOP/162416

PRELIMINARY RECITALS

Pursuant to a petition filed December 3, 2014, under Wis. Admin. Code, §HA 3.03, to review a decision by the Marinette County Dept. of Human Services to recover FoodShare benefits (FS), a hearing was held on December 23, 2014, by telephone.

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

PARTIES IN INTEREST:

Petitioner:

[Redacted]
Redact
[Redacted]

Respondent:

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

By: [Redacted]
Marinette County Dept. of Human Services
1605 University Drive
Marinette, WI 54143

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [Redacted]) is a resident of Marinette County.
2. Petitioner receives FS for a one-person household. He received an excess medical expense deduction after submitting an uninsured medical bill of \$1,744.98. The county initially divided the bill by twelve, giving petitioner a medical expense of \$148.31 in his FS calculation. See Exhibit 5, the August 18, 2014 notice.

3. For unknown reasons, the entire amount of the medical bill was budgeted for FS purposes for September, October, and November, 2014. The result was that petitioner's FS increased from \$15 in August to \$189 in September.
4. A county worker discovered the discrepancy on October 31, 2014. She changed the medical expense back to the correct amount, and FS were reduced to \$16 effective December 1, 2014.
5. By a notice dated November 4, 2014 the county informed petitioner that he was overpaid \$528 in FS from September 1 through November 30, 2014 due to agency error, claim no. Redact.

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).

It is clear that petitioner was overpaid FS due to a county worker's error. Petitioner testified that he had no way of knowing that the error was made, and I agree with that. The federal FS law requires the agency to recover FS overpayments even if they were caused by worker error, and thus I must conclude that the county correctly determined the overpayment.

CONCLUSIONS OF LAW

The county correctly determined that petitioner was overpaid \$528 in FS in 2014 due to agency error.

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 5th day of January, 2015

\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 January 5, 2015.

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