



FH

Redact

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

In the Matter of:

Redact

DECISION

FOP/162444

PRELIMINARY RECITALS

Pursuant to a petition filed December 02, 2014, under Wis. Admin. Code § HA 3.03, to review a decision by the Public Assistance Collection Unit ["PACU"] in regard to FoodShare benefits ["FS"], a Hearing was held via telephone on January 7, 2015. At petitioner's request the record of the January 7th Hearing was held open until January 9, 2015.

The issue for determination is whether it was correct to establish the following Claim against petitioner for an alleged overpayment of FS: Claim # Redact; July 1, 2014 to August 31, 2014; in the total amount of \$254.00.

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: Redact, PARIS Agent
Public Assistance Collection Unit
P.O. Box 8939
Madison, WI 53708-8938

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # Redact) was a resident of Wisconsin.
2. The County established the following Claim against petitioner for an alleged overpayment of FS: Claim # Redact; July 1, 2014 to August 31, 2014; in the total amount of \$254.00.
3. The alleged FS overpayment detailed in *Finding of Fact* #2, above, is based on the County's claim that petitioner was not living in Wisconsin as of May 14, 2014.
4. Petitioner left Wisconsin on July 1, 2014 and moved to North Dakota; he lived in Wisconsin prior to that time.

DISCUSSION

A person must live in Wisconsin in order to receive FS in Wisconsin. 7 C.F.R. § 273.3(a) (2011); *FoodShare Wisconsin Handbook* ["FWH"] 3.2.1. The County claims that petitioner was not living in Wisconsin as of May 14, 2014. However, the preponderance of the evidence in the record of this matter is that petitioner left Wisconsin on July 1, 2014 and moved to North Dakota (he lived in Wisconsin prior to that time). The evidence is that he reported this to Wisconsin on August 1, 2014. This is based on petitioner's credible testimony, petitioner's bank transaction history, and computer *Case Comments*.

CONCLUSIONS OF LAW

For the reasons discussed above, it was not correct to establish the following Claim against petitioner for an overpayment of FS: Claim # Redact; July 1, 2014 to August 31, 2014; in the total amount of \$254.00.

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 letter to petitioner stating that it has done this: Claim # Redact; July 1, 2014 to August 31, 2014; in the total amount of \$254.00.

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 20th day of January, 2015

\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 January 20, 2015.

Public Assistance Collection Unit
Public Assistance Collection Unit
Division of Health Care Access and Accountability