



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[Redacted]
[Redacted]
Redact

DECISION

FOP/162528

PRELIMINARY RECITALS

Pursuant to a petition filed December 10, 2014, under Wis. Admin. Code §HA 3.03, to review a decision by the Fond Du Lac County Department of Social Services in regard to FoodShare benefits (FS), a telephone hearing was held on January 08, 2015.

The issue for determination is whether the respondent correctly applied an auxiliary FS payment to petitioner's existing FS overpayment.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[Redacted]
[Redacted]
Redact

Respondent:

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

By: [Redacted]

Fond Du Lac County Department of Social Services
50 N Portland St
Fond Du Lac, WI 54935

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [Redacted]) is a resident of Fond Du Lac County, and an ongoing recipient of FS benefits.

2. An overpayment was established regarding FS issued to petitioner between February and September, 2007. As of January 3, 2015, the balance of that overpayment was \$279.00. Exhibit 4.
3. An overpayment was established regarding FS issued to petitioner between February and July, 2009. As of January 3, 2015, the balance of that overpayment was \$1,390.00. Exhibit 8.
4. An overpayment was established regarding FS issued to petitioner between August and September, 2009. As of January 3, 2015, the balance of that overpayment was \$610.00. Exhibit 8.
5. Petitioner verified new medical expenses on or about November 25, 2014, which resulted in an increase in petitioner's FS allotment. The increase was set to apply to December's \$118.00 allotment, but since that allotment was already established, the increased amount for December was issued as an auxiliary FS allotment in the amount of \$160.00.
6. The December auxiliary allotment of \$160.00 was applied to petitioner's outstanding FS overpayment debt.

DISCUSSION

FoodShare rules hold that “[a]ll reported changes that cause an increase in the FS benefit...will be effective the first of the month following the report month.” *FoodShare Wisconsin Handbook*, § 6.1.3.3.; *see also*, 7 CFR 273.12(c)(1). This means that the petitioner was entitled to an increase in her FoodShare allotment as of December, 2014, since she reported her increased medical expenses in November or 2014. The respondent correctly processed this reported change to petitioner's household budget.

The respondent also noted that the petitioner is liable for three overpayment claims. Repayment of the overpayment claims is presently proceeding via reduction of petitioner's current FS allotments. Recoupment as it pertains to auxiliary payments is covered by FoodShare policy as follows:

7.3.1.4 Exception

An initial allotment must not be reduced to offset a claim. This includes retroactive initial allotments. Person Adds are not initial allotments. Therefore, you can offset claims against person add auxiliaries. **Offset the entire auxiliary, if the claim balance is more than the auxiliary.** If the claim balance is less than the auxiliary, CARES will correctly apply the amount of auxiliary that will zero out the claim and issue the remainder of the auxiliary as a benefit to the recipient.

FoodShare Wisconsin Handbook, § 6.1.3.3 (emphasis added).

I have reviewed the record in this matter, and in light of the fact that the auxiliary payment is less than the outstanding overpayment claim balances, I find no error in the respondent's action applying the entirety of the auxiliary payment to the petitioner's FS overpayment debt. While I acknowledge the confusing nature of the notices provided to the petitioner, the petitioner has not established any error of recoupment by the respondent.

CONCLUSIONS OF LAW

The respondent correctly recouped the entire auxiliary payment as the outstanding overpayment claims balances are more than the auxiliary payment.

THEREFORE, it is

ORDERED

That petitioner's appeal 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 29th day of January, 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 January 29, 2015.

Fond Du Lac County Department of Social Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability