



FH

Redact

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

In the Matter of:

[Redacted]

Redact

[Redacted]

DECISION

FOP/162626

PRELIMINARY RECITALS

Pursuant to a petition filed December 12, 2014, under Wis. Admin. Code § HA 3.03, to review a decision by the Portage County Department of Human Services ["County"] in regard to FoodShare benefits ["FS"], a Hearing was held via telephone on January 15, 2015. The Hearing for this matter was held at the same time as the Hearing for the following closely related matter concerning the same petitioner: MOP-162627.

The issue for determination is whether it was correct to establish the following Claim against petitioner for an overpayment of FS: Claim Number [Redact] for the time period February 2014 in the amount of \$125.00.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[Redacted]

Redact

[Redacted]

Respondent:

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

BY: [Redact], ES Lead Worker
Portage County Department of Human Services
817 Whiting Avenue
Stevens Point, WI 54481-5292

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # Redact) is a resident of Portage County, Wisconsin.
2. The County established the following Claim against petitioner for an overpayment of FS: Claim Number Redact for the time period February 2014 in the amount of \$125.00.
3. On January 6, 2014 petitioner reported to the County that she started to receive a pension and that her son had moved out of her household; due to County error this information was not acted on in time for petitioner's February 2014 FS issuance.
4. The FS overpayment in *Findings of Fact* #2, above, resulted from the fact that, due to County error, petitioner's pension and the fact her son had moved out of her household were not factored in when calculating the amount of her February 2014 FS.

DISCUSSION

A person can be held liable for an FS overpayment and made to repay it even though the overpayment was not their fault. All FS overpayments, regardless of fault, must be collected. 7 C.F.R. § 273.18(b) (2011); See also, *FoodShare Wisconsin Handbook* ["FWH"] 7.3.1.1 & 7.3.2.1. It is true that the overpayment is not petitioner's fault. However, the law, as already noted, requires that all FS overpayments, regardless of fault, must be collected. Therefore, petitioner can be held liable for the FS overpayment and made to repay it even though it was not her fault.

CONCLUSIONS OF LAW

For the reasons discussed above, petitioner is liable for the FS overpayment detailed in *Findings of Fact* #2, above, and must repay it.

NOW, 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 28th 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 28, 2015.

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