



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Redact

DECISION

FOP/162892

PRELIMINARY RECITALS

Pursuant to a petition filed December 24, 2014, under Wis. Admin. Code, §HA 3.03, to review a decision by the Grant County Dept. of Social Services to recover FoodShare benefits (FS), a hearing was held on March 25, 2015, by telephone. Hearings set for January 22 and February 19, 2015 were rescheduled at the petitioner's request.

The issue for determination is whether petitioner was overpaid FS because she did not report an increase in income.

PARTIES IN INTEREST:

Petitioner:

Redact

Respondent:

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

By: Redact
Grant County Dept. of Social Services
P.O. Box 447
Lancaster, WI 53813

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # Redact) is a resident of Grant County.
2. In 2014 petitioner received FS as part of a four-person household. On December 13, 2013, the county informed petitioner that she would receive \$61 FS in January, 2014 based upon \$584.44 bi-weekly income from Lands' End, \$82 monthly unemployment compensation (UC), and

- \$1,097.88 child support. The notice told petitioner to report an increase in income if it caused monthly income to rise above \$2,552.
3. In late 2014 the agency received a state wage match that showed petitioner's quarterly income to be higher than expected. Petitioner's monthly household income rose above \$2,552 in January, 2014. The county obtained petitioner's actual income from 2014.
 4. By a notice dated December 11, 2014, the county informed petitioner that she was overpaid \$632 in FS from January 1 through August 31, 2014, claim no. Redact. See Exhibit 2, pages 6 and 7 for the calculations.
 5. Prior to the hearing the county worker recalculated the overpayment. She eliminated the months of January and February, 2014 from the claim because petitioner would not have had to report the increased income until February 10, 2014. She also changed the earned income deduction to credit petitioner with the deduction in the original budgets. The overpayment was reduced to \$478 for only the months of March through August, 2014.

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). All adult members of an FS household are liable for an overpayment. 7 C.F.R. §273.18(a)(4); FS Handbook, Appendix 7.3.1.2.

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).

With petitioner's earned income rising about the reporting requirement in January, 2014, FS policy required petitioner to report the increase by February 10, 2014. See FS Handbook, App. 6.1.1.2. Thus FS would not be affected until March, 2014. Handbook, App. 6.1.3.6. An additional policy is that if the person fails to report an increase in income, there is no additional earned income deduction beyond the one used in the original calculation. Handbook, App. 7.3.2.1, "Client Error," seventh paragraph. Ms. Redact initially removed the earned income deduction from the overpayment calculation entirely, but prior to the hearing returned the original deduction to the calculation.

The result is that petitioner was overpaid \$478 in FS from March until August. I checked the final calculations and they are correct. I will dismiss the appeal because the changes already have been made by Ms. Redact.

CONCLUSIONS OF LAW

Petitioner was overpaid FS because she did not report an increase in income.

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 31st day of March, 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 March 31, 2015.

Grant County Department of Social Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability