



FH  
[REDACTED]

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

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In the Matter of:

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOP/163095

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**PRELIMINARY RECITALS**

Pursuant to a petition filed January 7, 2015, under Wis. Admin. Code § HA 3.03, to review a decision by the Outagamie County Department of Human Services ["County"] in regard to FoodShare benefits ["FS"], a Hearing was held via telephone on February 10, 2015. The Hearing for this matter was held at the same time as the Hearing for the following related matter concerning the same petitioner: MOP-163096.

The issue for determination is whether it was correct to establish the following Claim against petitioner for an overpayment of FS: Claim Number [REDACTED] for the time period June 2013 to December 2013 in the total amount of \$764.00.

There appeared at that time via telephone the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

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

BY: Laura Parsley, ESS

Outagamie County Department of Human Services  
401 S. Elm Street  
Appleton, WI 54911-5985

**ADMINISTRATIVE LAW JUDGE:**

Sean P. Maloney  
Division of Hearings and Appeals

### FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Outagamie County, Wisconsin.
2. The County established the following Claim against petitioner for an overpayment of FS: Claim Number [REDACTED] for the time period June 2013 to December 2013 in the total amount of \$764.00.
3. The FS overpayment in *Findings of Fact* #2, above, resulted from the fact that earned income of petitioner's husband from his employment at [REDACTED] was not budgeted into FS calculations during the time period in question.

### DISCUSSION

The FS program has eligibility criteria based on both gross and net<sup>1</sup> incomes. see, 7 C.F.R. § 273.9(a) (2015); *FoodShare Wisconsin Handbook* ["FWH"] 1.1.4 & 4.3.1. For purposes of FS eligibility the income of all members of an FS household is counted.<sup>2</sup> 7 C.F.R. §§ 273.9(a)intro. & (b)intro. (2015); *FoodShare Wisconsin Handbook* ["FWH"] 4.3.1.

Petitioner's FS household income was not properly budgeted during the time period in question and this resulted in an FS overpayment. Petitioner does not dispute this.

Petitioner testified that she reported income whenever she was requested to do so. However, petitioner was required to report by the 10th of the month following the month in which her total household income exceeded 130% of the FPL (whether she was requested to do so or not). FWH 6.1.1.2; 7 C.F.R. §§ 273.12(a)(5)(v) & (6)(i) (2015). Furthermore, the law provides that a person can be held liable for an FS overpayment and made to repay it even though the overpayment may not have been their fault. All FS overpayments, regardless of fault, must be collected. 7 C.F.R. § 273.18(b) (2015); FWH 7.3.1.1 & 7.3.1.2.

### CONCLUSIONS OF LAW

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

**NOW, THEREFORE, it is**

### ORDERED

That the petition for review herein be and the same is hereby DISMISSED.

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<sup>1</sup> Certain specified deductions from gross income are allowed when calculating net income for FS purposes. The only allowed deductions are: standard deduction; earned income deduction; excess medical deduction; dependent care deduction; child support deduction; homeless shelter deduction; excess shelter deduction; and, standard utility allowance. No other deductions are allowed. 7 C.F.R. § 273.9(d) (2015); FWH 4.6.1.,et. seq.; See also, FWH 8.1.1.2.

<sup>2</sup> When income is received weekly (or every other week) it is multiplied by 4.3 (or 2.15) to get monthly income. 7 C.F.R. § 273.10(c)(2)(i) (2015). This is because there are, on average, 4.3 weeks in a month (52 weeks per year divided by 12 months per year).

## 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 26th day of February, 2015

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\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 February 26, 2015.

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