



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOP/163292

PRELIMINARY RECITALS

Pursuant to a petition filed January 16, 2015, under Wis. Admin. Code, §HA 3.03, to review a decision by Columbia County Health & Human Services to recover FoodShare benefits (FS), a hearing was held on February 11, 2015, by telephone.

The issue for determination is whether the county correctly determined that petitioner was overpaid FS.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Megan Kleist
Columbia County Health & Human Services
P.O. Box 136
Portage, WI 53901

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Columbia County.
2. Petitioner applied for FS in October, 2013. Although he has three children, they were not included in his FS household because they already in another FS household. FS were opened for petitioner effective November 1 at the maximum amount of \$189. The notice informed petitioner that if his monthly income rose above \$1,245 he needed to report the increase to the agency.
3. Petitioner obtained new employment in December, 2013. His first pay check received in late December was for a gross amount of \$1,250.

4. Petitioner reported the employment on February 24, 2014. The income caused FS to close effective April 1, 2014.
5. The county determined that petitioner should have reported the employment by January 10, 2014 because petitioner's December, 2013 income was higher than \$1,245. Had petitioner reported the employment by January 10, FS would have closed February 1.
6. By a notice dated October 31, 2014, the county informed petitioner that he was overpaid \$378 in FS in February and March, 2014, claim no. [REDACTED].

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).

Petitioner testified that he thought FS was for blocks of time and that he would remain eligible even if he started the new job. While it is true that FS eligibility goes for six-month periods, there still are reporting requirements for new and/or increased income. Petitioner simply erred by failing to report the new job timely; no claims of fraud are made by the county agency.

I conclude that the agency correctly determined that petitioner was overpaid FS for the two months in question. Had he reported the new job timely his FS would have closed February 1 instead of April 1, 2014.

CONCLUSIONS OF LAW

The county correctly determined that petitioner was overpaid FS for two months because his new job would have ended eligibility February 1, 2014, but petitioner received FS for February and March because he did not report the new job timely.

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 13th day of February, 2015

\sBrian C. Schneider
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin \DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on February 13, 2015.

Columbia County Health & Human Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability