



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

Redact
Redact
Redact

DECISION

FTI/163512

PRELIMINARY RECITALS

Pursuant to a petition filed January 21, 2015, under Wis. Stat. § 49.85(4), and Wis. Admin. Code §§ HA 3.03(1), (3), to review a decision by the Sawyer County Human Services in regard to FoodShare benefits (FS), a telephone hearing was held on February 19, 2015, at Green Bay, Wisconsin.

The issue for determination is moot as matter of fact and law, because the Respondent has agreed to rescind the petitioner’s liability for the underlying FS overpayment.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

Redact
Redact
Redact

Respondent:

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

By: Redact
Sawyer County Human Services
10610 Main Street
PO Box 730
Hayward, WI 54843

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

DISCUSSION

Wis. Stat. § 49.85, provides that the Wisconsin Department of Health Services shall, at least annually, certify to the Wisconsin Department of Revenue the amounts that it has determined that it may recover

resulting from overpayments of general relief benefits, Food Stamps, AFDC and/or Medical Assistance payments previously made incorrectly.

The Department of Children and Families – Public Assistance Collections Unit must notify the person that it intends to certify the overpayment to the Department of Revenue for setoff from state income tax refund and must inform the person that he/she may appeal the decision by requesting a hearing. Id. at § 49.85(3).

The hearing right is described in Wis. Stat. § 49.85(4)(b), as follows:

If a person has requested a hearing under this subsection, the department ... shall hold a contested case hearing under s. 227.44, except that the department ... may limit the scope of the hearing to exclude issues that were presented at a prior hearing or that could have been presented at a prior opportunity for hearing.

The respondent, by Aimee Merrigan, a Collection Specialist with the Public Assistance Collections Unit, presented a February 16, 2015, letter wherein the respondent informed the petitioner as follows:

This letter is to verify that the Public Assistance Collections Unit has reviewed the above listed case [Claim No. **Redact**] and has removed **Redact Redact** as liable effective January 29, 2015. Any funds received in Ms. **Redact**'s name will be refunded to her address listed above.

Exhibit 2.

CONCLUSIONS OF LAW

1. The Department has agreed to rescind any liability of the petitioner related to FS overissuance Claim No. **Redact**.
2. Since petitioner is not liable for the FS overissuance Claim No. **Redact**, the respondent shall not proceed with it tax intercept.
3. Any monies recouped from petitioner regarding FS overissuance Claim No. **Redact** shall be refunded to petitioner. Any collections fees recouped from petitioner shall be refunded to petitioner.

THEREFORE, it is

ORDERED

That the matter is remanded to the respondent with instructions to rescind liability of the petitioner related to FS overissuance Claim No. **Redact**. The respondent shall cease all collection activity specific to petitioner with regard to FS overissuance Claim No. **Redact**, and any and all monies recouped from petitioner regarding FS overissuance Claim No. **Redact** shall be immediately refunded to petitioner. Any collections fees regarding FS overissuance Claim No. **Redact** shall be immediately refunded to petitioner. These actions shall be completed within 10 days of the date of this Decision.

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 12th day of March, 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 March 12, 2015.

Sawyer County Human Services
Public Assistance Collection Unit