FH
[redacted]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of:

[redacted]

DECISION

FOP/163889

PRELIMINARY RECITALS

Pursuant to a petition filed February 12, 2015, under Wis. Admin. Code § HA 3.03, to review a decision by the La Crosse County Department of Human Services ["County"] in regard to FoodShare benefits ["FS"], a Hearing was held via telephone on March 19, 2015.

The issue for determination is whether it was correct to establish the following claim against petitioner for overpayments of FS: Claim Number [redacted] for the time period June 1, 2013 to August 31, 2013 in the total amount of $945.00.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:
Petitioner:

[redacted]

Respondent:

Department of Health Services
1 West Wilson Street, Room 651
Madison, Wisconsin 53703
BY: Robert Uebele, ESS
La Crosse County Department of Human Services
300 N. 4th Street
PO Box 4002
La Crosse, WI 54601

ADMINISTRATIVE LAW JUDGE:
Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [redacted]) is a resident of La Crosse County, Wisconsin.
2. The County established the following claim against petitioner for overpayments of FS: Claim Number [redacted] for the time period June 1, 2013 to August 31, 2013 in the total amount of $945.00. Exhibit #5.
3. The FS overpayment in *Finding of Fact* #2, above, resulted from the fact that the earned income of petitioner's from her employment at [redacted] was not budgeted when calculating FS during the time period in question. Exhibits #1 & #4.

DISCUSSION

All FS overpayments, regardless of fault, must be collected. 7 C.F.R. § 273.18(b) (2015); See also, *FoodShare Wisconsin Handbook* ["FWH"] 7.3.1.1 & 7.3.2.1.

Petitioner does not deny that her earned income from [redacted] was not budgeted when calculating her FS during the time period in question. Petitioner does not deny that the earned income existed and that, for whatever reason, it was not budgeted. This resulted in an overpayment.

Finally, at the March 19th Hearing petitioner testified that she paid $1,000 per month rent and had children in her household. However, the overpayment was calculated using $1,000 per month as her rent and including her children in her household (household size of 3 persons).

CONCLUSIONS OF LAW

For the reasons discussed above, petitioner is liable for the FS overpayment detailed in *Finding 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 3rd day of April, 2015

\sSean P. Maloney
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 April 3, 2015.

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