



FH
[REDACTED]

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

In the Matter of:

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

[REDACTED]

PRELIMINARY RECITALS

Pursuant to a petition filed March 6, 2015, under Wis. Admin. Code § HA 3.03, to review a decision by the Dane County Department of Human Services [“County”] in regard to FoodShare benefits [“FS”], a Hearing was held via telephone on April 16, 2015. The Hearing for this matter was held at the same time as the Hearing for the following 3 closely related matters: [REDACTED]; [REDACTED]; and, [REDACTED]-[REDACTED]

The issue for determination is whether it was correct to establish the following 2 Claims against petitioner for overpayments of FS covering the time period November 1, 2013 to November 30, 2014 in the total amount of \$6,800.00:

Claim Number [REDACTED]; November 1, 2013 to April 30, 2014; \$2,341.00; and,
Claim Number [REDACTED]; May 1, 2014 to November 30, 2014; \$4,459.00.

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: Monica Johnson, Overpayment Specialist
Dane County Department of Human Services
1819 Aberg Avenue
Suite D
Madison, WI 53704-6343

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

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Adams County, Wisconsin.
2. The County established the following 2 Claims against petitioner for overpayments of FS covering the time period November 1, 2013 to November 30, 2014 in the total amount of \$6,800.00:
Claim Number [REDACTED]; November 1, 2013 to April 30, 2014; \$2,341.00; and,
Claim Number [REDACTED]; May 1, 2014 to November 30, 2014; \$4,459.00.
Exhibit #A1.
3. The FS overpayment in *Finding of Fact #2*, above, resulted from the fact that not all earned income of petitioner from his employment at [REDACTED] [REDACTED] [REDACTED] was budgeted when calculating FS during the time period in question. Exhibits #A2, #C1, #C2, #C3, #C4, #C5, #C6, #C7 & D.

DISCUSSION

The FS program has eligibility criteria based on both gross and net¹ 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.² 7 C.F.R. §§ 273.9(a)intro. & (b)intro. (2015); *FoodShare Wisconsin Handbook* ["FWH"] 4.3.1.

Petitioner does not deny that all his earned income was not budgeted when calculating his FS during the time period in question -- he had some earned income that, for whatever reason, was not budgeted. That income put petitioner's household over the FS income limit and resulted in an overpayment.

Petitioner argues that he, his wife, or his employer reported his income. The County contends that not all of petitioner's income was reported. Nevertheless, 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. Furthermore, the law also provides that each person who was an adult member of the FS household when an overpayment occurred is responsible for paying the claim. 7 C.F.R. § 273.18(a)(4)(i) (2015); See also, *FoodShare Wisconsin Handbook* ["FWH"] 7.3.1.2. Thus, petitioner can be held liable for the overpayments and made to repay them.

¹ 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.

² 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).



CONCLUSIONS OF LAW

For the reasons discussed above, petitioner can be held liable for the FS overpayments detailed in *Finding of Fact #2*, above, and made to repay them.

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 22nd day of April, 2015

\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 April 22, 2015.

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