



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOP/165715

PRELIMINARY RECITALS

Pursuant to a petition filed April 29, 2015, under Wis. Admin. Code §HA 3.03, to review a decision by the Racine County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on May 21, 2015, at Racine, Wisconsin.

The issue for determination is whether the Petitioner is liable for an overpayment of \$106.00 for the month of March 2015.

There appeared at that time and place 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: Rachel Petrick, Lead Economic Support Specialist
Racine County Department of Human Services
1717 Taylor Ave
Racine, WI 53403-2497

ADMINISTRATIVE LAW JUDGE:

Mayumi M. Ishii
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Racine County.
2. On February 14, 2015, the Petitioner completed an on-line ACCESS renewal. (Exhibit 3)
3. At that time, the Petitioner reported receiving Social Security Income, Federal Supplemental Security Income, State Supplemental Security Income and SSE benefits. (Exhibit 3, Testimony of Ms. Petrick)

4. For reasons not clear to the Racine County Human Services Department (the agency), its automated computer system did not budget all of Petitioner’s income for the month of March 2015. (Testimony of Ms. Petrick; Exhibit 2)
5. On or about February 17, 2015, Petitioner spoke to an agency representative who told her that she would be getting more FoodShare benefits that she was entitled to receive, because of a problem with the computer system. The Petitioner used the benefits anyway. (Testimony of the Petitioner)
6. On February 19, 2015, the agency sent the Petitioner a notice indicating that she was going to receive \$180.00 for March 2015, due to a system error. (Exhibit 8)
7. In total, the Petitioner received \$357.00 in FoodShare benefits for the month of March 2015. (Exhibit 4)
8. On March 25, 2015, the agency sent the Petitioner a FoodShare Overpayment Notice dated March 25, 2015, for claim number [REDACTED]. The notice indicated that the Petitioner had been overpaid \$106 for the month of March 2015. (Exhibit 7)
9. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on April 29, 2015. (Exhibit 1)
10. Petitioner has a household of two individuals (Testimony of Petitioner)
11. She pays rent in the amount of \$209.00 per month, which includes heat and electricity. (Testimony of Petitioner)
12. The Petitioner pays for a phone utility and has excess medical expenses that total \$537.23 per month. (Testimony of Petitioner)
13. Petitioner’s gross monthly income totals \$1086.00; \$720 from Social Security; \$33.01 from Federal Supplemental Security Income; \$83.78 from State Supplemental Security Income and \$250 from Caretaker Supplement Benefits. (Testimony of Petitioner; Exhibits 5 and 6)

DISCUSSION

The Petitioner argues that she should not be forced to pay back the overpayment, because it was caused by agency error. However, the federal regulation concerning FoodShare overpayments requires the State agency to take action to establish a claim against any household that received an overissuance of FoodShare due to an intentional program violation, an inadvertent household error (also known as a “client error”), or an agency error (also known as a “non-client error”). 7 C.F.R. § 273.18(b), emphasis added; see also *FoodShare Wisconsin Handbook*, (FSH) § 7.3.2.1. As such, it does not matter whose error caused the overpayment; it must be recouped; Petitioner must pay it back.

Petitioner does not dispute the fact that she received \$357 in benefits for the month of March 2015, based upon an incorrect calculation of her income.

Applying the correct income, we have the following allotment calculation for March 2015:

Gross Income	\$1086	Rent	\$209.00
No Earned Income Deduction		Phone allowance	+\$30.00
Standard Deduction	-\$155.00	50% of \$393.77	-\$196.89
No Medical Expenses exceeding \$35	-\$537.23		
No Dependent Care Expenses		Excess Shelter Expense	\$42.11
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Net Income before Shelter deduction	\$393.77		
Excess Shelter Expense	- \$42.11		
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Net Income	\$351.66		

Individuals, in a household of two, with a net income of \$351.66 qualify for a FoodShare allotment of \$251 per month. FSH §8.1.2

\$357 (what was issued to the Petitioner) - \$251 (What should have been issued to Petitioner) = \$106 overpayment of benefits for March 2015.

CONCLUSIONS OF LAW

The agency correctly determined that the Petitioner is liable for an overpayment of \$106.00 for the month of March 2015.

THEREFORE, it is ORDERED

That the petition is 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 Milwaukee,
Wisconsin, this 28th day of May, 2015.

\sMayumi M. Ishii
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 May 28, 2015.

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