



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of:

[Redacted]
Redact
[Redacted]

DECISION

FOP/165785

PRELIMINARY RECITALS

Pursuant to a petition filed May 1, 2015, under Wis. Admin. Code § HA 3.03, to review a decision by the Rock County Department of Social Services ["County"] in regard to FoodShare benefits ["FS"], a Hearing was held via telephone on May 21, 2015. The Hearing for this matter was held at the same time as the Hearing for the following closely related matter concerning petitioner's wife: FTI-165786.

The issue for determination is it was correct to establish the following 2 Claims against petitioner for overpayments of FS spanning the time period January 1, 2011 to January 31, 2013 in the total original amount of \$4,787.00 part of which has already been repaid:

- (I) Claim Number [Redacted]; January 1, 2011 to October 31, 2011; original amount of \$4,361.00; and,
(II) Claim Number [Redacted]; September 1, 2012 to January 31, 2013; \$426.00.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[Redacted]
Redact
[Redacted]

Respondent:

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

BY: [Redacted], ESS
Rock County Department of Social Services
1900 Center Avenue
PO Box 1649
Janesville, WI 53546

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

FINDINGS OF FACT

1. Petitioner (CARES # Redact) is a resident of Rock County, Wisconsin.
2. The county established the following 2 Claims against petitioner for overpayments of FS spanning the time period January 1, 2011 to January 31, 2013 in the total original amount of \$4,787.00 part of which has already been repaid::
 - (I) Claim Number Redact; January 1, 2011 to October 31, 2011; original amount of \$4,361.00; and,
 - (II) Claim Number Redact; September 1, 2012 to January 31, 2013; \$426.00 (this amount was continued FS benefits granted to petitioner at his request pending the Hearing in DHA Case No. FOO-143902 which he withdrew -- see *Findings of Fact* #4, below).¹
3. On or about October 10, 2011 petitioner requested a Hearing concerning the FS overpayment detailed in *Findings of Fact* #2, above; by a letter from his attorney dated October 27, 2011 petitioner withdrew his request for a Hearing; a *Decision* dated October 31, 2011 was issued dismissing petitioner's petition. See, DHA Case No. FOP-135805 (Wis. Div. Hearings & Appeals October 31, 2011) (DHS).
4. On or about September 17, 2012 petitioner again requested a Hearing concerning the FS overpayment detailed in *Findings of Fact* #2, above; by a letter from his attorney dated January 24, 2013 petitioner withdrew his request for a Hearing; a *Decision* dated January 29, 2013 was issued dismissing petitioner's petition. See, DHA Case No. FOO-143902 (Wis. Div. Hearings & Appeals January 29, 2013) (DHS).

DISCUSSION

The *Decisions* issued by the Division of Hearings and Appeals ["DHA"] on October 31, 2011 in Case No. FOP-135805 and on January 29, 2013 in Case No. FOO-143902 were the final decisions concerning the FS overpayment detailed in *Findings of Fact* #2, above. Wis. Admin. Code § HA 3.09(9)(a) (February 2013). Final administrative action was taken when those *Decisions* were mailed by DHA to petitioner. Wis. Admin. Code § HA 3.09(12) (February 2013). Petitioner had an opportunity have DHA address the merits of the FS overpayment in the context of those *Decisions*. Petitioner is not entitled to a second such opportunity.

CONCLUSIONS OF LAW

For the reasons discussed above, petitioner is not entitled to a second opportunity to have DHA address the merits of the FS overpayment detailed in *Findings of Fact* #2, above.

¹ The law provides that if an agency action is upheld by a Hearing *Decision* then a Claim against the household must be established for all overpayments resulting from the continuing benefits that were received. 7 C.F.R. § 273.15(k)(1) (2015); See also, *FoodShare Wisconsin Handbook* ["FWH"] 7.3.1.9.2.

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 1st day of June, 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 June 1, 2015.

Rock County Department of Social Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability