



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 September 21, 2015, under Wis. Admin. Code §HA 3.03, to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on October 13, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether the county correctly determined an FS overpayment.

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: [REDACTED]
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner received FS during the period of August 1, 2013, through January 31, 2014.
3. In July, 2013, petitioner completed a Six Month Reporting Form (SMRF), reporting earned income from [REDACTED] [REDACTED] [REDACTED] [REDACTED] and unearned income from [REDACTED] [REDACTED]. The petitioner reported no change in her earned income.

4. In February, 2014, petitioner completed her FS renewal, reporting earned income from [REDACTED] and unearned income from [REDACTED]. The petitioner reported no other income.
5. In July, 2014, petitioner completed a SMRF, reporting earned income from [REDACTED] and unearned income from [REDACTED]. The petitioner reported no other income. The petitioner reported no change in her earned income.
6. During the period of August 1, 2013, through January 31, 2014, petitioner received earned income from [REDACTED], which was not reported.
7. By a notice dated July 17, 2015, the county informed petitioner that she was overpaid FS totaling \$2,611.00 from August 1, 2014, through January 31, 2015, due to client error, failure to report income, identified as claim nos. [REDACTED] and [REDACTED]. The overpayment was determined by budgeting actual income received during the period against the amount originally budgeted to determine what would have been the correct FS amount.

DISCUSSION

The Department is required to recover all FS overpayments. An overpayment occurs when an FS household receives more FS than it is entitled to receive. 7 C.F.R. §273.18(c). The federal FS regulations provide that the agency shall establish a claim against an FS household that was overpaid, even if the overpayment was caused by agency error. 7 C.F.R. §273.18(b)(3). All adult members of an FS household are liable for an overpayment. 7 C.F.R. §273.18(a)(4); FS Handbook, Appendix 7.3.1.2.

To determine an overpayment, the agency must determine the correct amount of FS that the household should have received and subtract the amount that the household actually received. 7 C.F.R. §273.18(c)(1)(ii).

Thus overpayments must be recovered even if caused by agency error. Petitioner's primary position is that she did not believe that she received earned income from [REDACTED] or [REDACTED] sufficient to affect her FS eligibility. The respondent was able to establish petitioner's actual income from [REDACTED] and [REDACTED], and respondent asserts that this income caused petitioner's household income to exceed FS program limits. I have reviewed the respondent's calculations and find no error. The respondent has established that petitioner was not financially eligible for FS during the time period of the overpayment.

Petitioner also argued that she received confusing notices with unexplained differing overpayment obligation amounts. The respondent countered that a Public Assistance Collections Unit letter to the petitioner contained a sum total of the amounts owing, as opposed to breaking them down by claim number. This does appear to be the source of the petitioner's confusion, and I find no error here.

CONCLUSIONS OF LAW

The agency correctly determined that the petitioner was overpaid \$2,611.00 from August 1, 2014, through January 31, 2015, due to client error, failure to report income, identified as claim nos. [REDACTED] and [REDACTED].

NOW, THEREFORE, it is

ORDERED

That the petition herein be 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 20th day of November, 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 November 20, 2015.

Milwaukee Enrollment Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability