



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FTI/172278

PRELIMINARY RECITALS

Pursuant to a petition filed February 25, 2016, under Wis. Stat. § 49.85(4), and Wis. Admin. Code §§ HA 3.03(1), (3), to review a decision by the Public Assistance Collection Unit (PACU) in regard to FoodShare benefits (FS), a hearing was held on March 23, 2016, by telephone.

The issue for determination is whether the petitioner should be subject to interception of his income tax refunds to collect on the FS overpayment claims # [REDACTED] and # [REDACTED].

There appeared at that time 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: Ms. [REDACTED] [REDACTED] Interstate Agent
Public Assistance Collection Unit
PO Box 8938
Madison, WI 53708-8938

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of [REDACTED].
2. The petitioner's mother is [REDACTED]. She received FS from at least February 2013 through December 2014, and claimed that the petitioner was a member of her household during the

period. The Department determined that [REDACTED] household was overpaid FS totaling at least \$18,368.00 during the period.

3. [REDACTED] moved from [REDACTED] to Wisconsin in 2013, and applied for FS in Wisconsin. The petitioner did not move with her. He remained behind, living with a sister, at [REDACTED] [REDACTED], [REDACTED], so that he could finish high school in [REDACTED]. He later moved to [REDACTED], [REDACTED] to attend college, and spent some time at a [REDACTED] shelter. He lived with a sister at [REDACTED] [REDACTED], [REDACTED] for several months after November 2014. He moved into his current residence in [REDACTED], [REDACTED] in February 2016.
4. On June 12, 2015, the Department mailed a notice (*Notice*) advising that Wisconsin would collect up to \$18,368.00 from [REDACTED] [REDACTED] via income tax refund interception for claims # [REDACTED] and # [REDACTED]. All adults members of a FS group (at the time of benefit receipt) are liable for overpayment repayment. Thus, if the petitioner had been residing with [REDACTED] at the time she received overpaid benefits, he would have shared in her overpayment liability. The petitioner did not receive a copy of the June 12 *Notice*.
5. The petitioner did not reside with [REDACTED] for an overwhelming majority of the time covered by the overpayment period. Post-hearing, the Department reviewed additional residence information supplied by the petitioner at hearing. On March 29, 2016, the Department advised this Judge and the petitioner that he was no longer liable for any portion of claims # [REDACTED] and # [REDACTED]. His mother remains liable.

DISCUSSION

On March 29, 2016, the Department advised this Judge and the petitioner that he was no longer liable for any portion of claims # [REDACTED] and # [REDACTED]. His mother remains liable.

The Department already collected \$5,090 from the petitioner for these claims via interception of his income tax refunds. The Department will refund the intercepted amount to the petitioner within the next few weeks.

CONCLUSIONS OF LAW

1. The petitioner is no longer liable for any portion of FS overpayment claims # [REDACTED] and # [REDACTED].
2. The petitioner's mother remains liable for the above claims.
3. The Department will return intercepted funds to the petitioner.

THEREFORE, it is

ORDERED

That the petition is remanded to the Department with instructions to (1) remove the petitioner as a liable person on claims # [REDACTED] and # [REDACTED], and (2) take action to refund the amounts intercepted from his refunds in 2016, within 10 days of the date of this Decision, if it has not already done so.

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 30th day of March, 2016

\sNancy J. Gagnon
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 March 30, 2016.

Public Assistance Collection Unit
Public Assistance Collection Unit