



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/172345

PRELIMINARY RECITALS

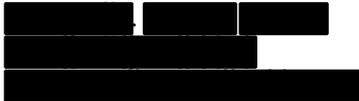
Pursuant to a petition filed February 25, 2016, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Wood County Human Services - WI Rapids in regard to FoodShare benefits (FS), a telephonic hearing was held on March 22, 2016, at Wisconsin Rapids, Wisconsin.

The issue for determination is whether the county agency correctly reduced the petitioner's FoodShare (FS) benefits from \$170 to \$153 effective March 1, 2016, due to recouping \$17 from her FS based upon petitioner's prior FS overpayment decision in FOP/170757.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: , ESS

Wood County Human Services - WI Rapids
220 Third Avenue South
Suite 4
Wisconsin Rapids, WI 54495

ADMINISTRATIVE LAW JUDGE:

Gary M. Wolkstein
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ) is a resident of Wood County who receives FoodShare (FS) benefits for a group of one.

2. In petitioner's prior appeal in Case No. FOP/1700057, the county agency sent November 20, 2015 and May 21, 2015 notices to the petitioner indicting that petitioner had received a total FS overpayment in the amount of \$970 from November, 2013 through May, 2015.
3. The petitioner appealed that FS overpayment determination in Case No. FOP/170057.
4. In his January 28, 2016 decision in FOP/170057, ALJ McCombs concluded that based upon the evidence in the hearing record, the county agency correctly determined that petitioner received a \$970 overpayment of FS benefits during the period of November, 2013 – May, 2015.
5. The petitioner did not timely appeal that DHA decision by ALJ McCombs in FOP/170057.
6. Based upon the decision in FOP/170057, the county agency determined that petitioner's FS should be recouped \$17 per month to recover the \$970 overpayment.
7. The county agency sent a February 15, 2016 Notice of Decision to the petitioner stating that effective March 1, 2016 her FS benefits would be reduced from \$170.00 to \$153.00 based upon a \$17 FS recoupment per month.

DISCUSSION

In determining the amount of FS to be issued each month, the county must budget all income of the FS household, including all earned and unearned income. 7 C.F.R. §273.9(b). From the gross household income, certain deductions as discussed in the *FoodShare Wisconsin Handbook*, §4.6 are allowed: (1) standard deduction - which currently is \$134 per month for all households. 7 C.F.R. §273.9(d) (1); (2) earned income deduction - which equals 20% of the household's total earned income. 7 C.F.R. §273.9(d) (2); (3) medical expense deduction – for medical expenses exceeding \$35 in a month for an elderly or disabled person. 7 C.F.R. §273.9(d) (3); (4) dependent care deduction for child care expenses. 7 C.F.R. §273.9(d) (4); and (5) shelter expenses deduction - the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 C.F.R. §273.9(d) (5). The maximum FS allotment amounts, based on household size, are listed at *FoodShare Wisconsin Handbook*, §8.1.7. The *FS Handbook* can be viewed online at <http://www.emhandbooks.wi.gov/fsh/>.

During the March 22, 2016 hearing, the county representative provided petitioner a detailed explanation regarding the calculation of the March 1, 2016 reduction in her FS benefits based upon the monthly \$17 FS recoupment as explained in the above Findings of Fact. ESS ██████ explained how the petitioner's FS benefits had been calculated to be \$153 as of March 1, 2016.

During the hearing, petitioner was unable to refute the county's case that it had correctly reduced the petitioner's FoodShare (FS) benefits from \$170 to \$153 effective March 1, 2016, due to correctly recouping \$17 from her FS based upon petitioner's prior FS overpayment decision in FOP/170757. The petitioner was upset about the FS recoupment, but admitted that she did not appeal the underlying FS overpayment decision in FOP/170757. See Findings of Fact #2 - #5 above. In reviewing the county agency's calculation of petitioner's FS benefits based upon FS policy and law, I find no error. Accordingly, for the above reasons, I must conclude that the county agency correctly reduced the petitioner's FoodShare (FS) benefits from \$170 to \$153 effective March 1, 2016, due to correctly recouping \$17 from her FS benefits based upon petitioner's prior FS overpayment decision in FOP/170757.

CONCLUSIONS OF LAW

The county agency correctly reduced the petitioner's FoodShare (FS) benefits from \$170 to \$153 effective March 1, 2016, due to correctly recouping \$17 from her FS benefits based upon petitioner's prior FS overpayment decision in FOP/170757.

THEREFORE, it is

ORDERED

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 6th day of April, 2016

\sGary M. Wolkstein
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 6, 2016.

Wood County Human Services - WI Rapids
Division of Health Care Access and Accountability