



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: FOP - 174676

PRELIMINARY RECITALS

Pursuant to a petition filed on May 27, 2016, under Wis. Admin. Code §HA 3.03, to review a decision by the Crawford County Department of Human Services regarding FoodShare benefits (FS), a hearing was held on June 28, 2016, by telephone from Madison, Wisconsin.

The issue for determination is whether the Department has correctly determined that the petitioner was overpaid \$6,259.00 of FS benefits due to a client error in under-reporting income.

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, WI 53703

By: [REDACTED]
Crawford County Department of Human Services
225 N Beaumont Rd., Suite 326
Prairie Du Chien, WI 53821

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Crawford County. She was the casehead of a three person FS household in at least the period of September 15, 2014, through March 31, 2016.

2. The respondent was processing an Energy Assistance application for petitioner, when it noted that her then-fiancé had income that was not being budgeted for FS benefits purposes.
3. On April 22, 2016, the respondent sent petitioner a notice indicating that it had determined that she was overpaid a total of \$6,259 during the period of September 15, 2014, through March 31, 2016.
4. On May 27, 2016, the petitioner filed an appeal with the Division of Hearings & Appeals contesting the FS overpayment determination of April 22, 2016.

DISCUSSION

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), see also *FoodShare Wisconsin Handbook*, Appendix 7.3.2. Generally speaking, whose “fault” caused the overpayment is not at issue if the overpayment occurred within the 12 months prior to discovery by the agency. See, 7 C.F.R. § 273.18(b); see also *FoodShare Wisconsin Handbook*, App. 7.3.1.9. However, overpayments due to agency error may only be recovered for up to 12 months prior to discovery. *FoodShare Wisconsin Handbook*, 7.3.2.1. Overpayments due to client error may be recovered for up to six years after discovery. *Id.* In addition, a FS household must report increases in earned income that exceed 130% of the federal poverty limit within 10 days of the increase. See, 7 C.F.R. § 273.12(a)(5)(v); and see, *FoodShare Wisconsin Handbook*, 6.1.1.2.

Petitioner does not contest the accuracy of the respondent’s overpayment calculations, but instead argues that she was unaware of what income information needed to be provided; she specifically asserted that this was an inadvertent error on her part that would have been avoided had the respondent simply requested W-2’s, for instance. She asserted that she did what she was told by her caseworker, and that she did not realize that her then-fiancé was included in the respondent’s requests for income information.

I understand, somewhat, the petitioner’s frustration in that she felt that she was correctly reporting her earnings, and that this was an inadvertent error. This understanding is tempered, somewhat, by the fact that during the time period at issue here, the petitioner was instructed, in writing, to complete FS renewals. Each of those notices referenced proof of income “for anyone in your home.” The FoodShare Program is a means-tested program. When a household fails to report all income, this plainly and simply results in an overpayment. It would be illogical to reach the conclusion that certain household members’ incomes would not need to be reported, if if one was unfamiliar with the process.

Based upon my review of the record and testimony, I find that the respondent has produced sufficient evidence to meet and exceed the preponderance of the evidence standard demonstrating that the petitioner was overpaid \$6,259.00 of FoodShare benefits in the test period due to a client error in underreporting her household income for a prolonged period of time. This overpayment determination must be sustained.

CONCLUSIONS OF LAW

That the Department correctly determined that the petitioner was overpaid \$6,259.00 of FoodShare benefits in the period of September 15, 2014, through March 31, 2016 (FS Claim Nos. [REDACTED], [REDACTED]) due to client error.

THEREFORE, it is

ORDERED

That the petition for review herein be, and the same hereby 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, **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 8th day of August, 2016

\s _____
Peter 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 August 8, 2016.

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