



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: FOP - 220581

PRELIMINARY RECITALS

Pursuant to a petition filed on October 27, 2025, under Wis. Admin. Code §HA 3.03, to review a decision by the Marinette County Health & Human Services regarding FoodShare benefits (FS), a hearing was held on January 20, 2026, by telephone.

The issue for determination is whether the agency erred in its determination of a FoodShare overpayment in claim number [REDACTED] in the amount of \$2,980 for the period from 5/1/25 through 9/30/25.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
201 E. Washington Ave.
Madison, WI 53703

By: K. Bruette

Marinette County Health & Human Services
Entrance B
1925 Ella Court
Marinette, WI 54143

ADMINISTRATIVE LAW JUDGE:

John Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Marinette County.
2. Petitioner was enrolled in the FoodShare program.

3. On 3/4/25 petitioner completed a periodic six-month report form. With the form, he submitted 30 days of pay stubs from earned income at [REDACTED]. The pay stubs were from pay dates 2/14/25 and 2/28/25.
4. The check dated 2/14/25 reflected gross wages of \$821.04 for a two-week period.
5. The check dated 2/28/25 reflected gross wages of \$552.64 for a two-week period.
6. Based on those paystubs, the agency budgeted a household gross income of \$686.84 every two weeks.
7. As a result of that income report, the agency issued a notice to petitioner on 3/5/25. The notice informed petitioner of his obligation to report if his gross income exceeded \$2,679.17 in any month. The notice stated that this was to be reported by the tenth day of the month following the overage.
8. Petitioner's income exceeded that threshold in March 2025. He received one paycheck dated 3/14/25 for gross \$1,502.60. On 3/28/25 his gross pay was \$1,617.66.
9. Petitioner did not report that month being over the reporting limit.
10. Petitioner's income in all the following months also exceeded the reporting limit with the highest month, September, having a gross income from [REDACTED] being over \$3,400.
11. The county determined an overpayment and issued an overpayment notice dated 10/9/25 to petitioner in claim number [REDACTED] in the amount of \$2,980 for the period from 5/1/25 through 9/30/25.
12. On 10/27/25 the petitioner requested a hearing relating to the overpayment claim.

DISCUSSION

The Federal Regulation concerning FoodShare overpayments requires the Department and its agents 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 Code of Federal Regulations (CFR) § 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 CFR § 273.18(b); see also, *FoodShare Wisconsin Handbook, App. 7.3.1.9*.

Generally speaking, to successfully establish an overpayment claim, the county agency needs to present: a copy of a notice and overpayment computations that were sent to the recipient; primary documentation proving the misstatement, omission, or failure occurred and caused FoodShare to be issued for which the client was not otherwise eligible; documentation of the benefits actually paid, Case Comments corroborating the facts and timeline of the original reporting, subsequent discovery, client contacts, etc. The agency must establish by the "preponderance of the evidence" in the record that it correctly determined the client was overpaid. See, generally, 7 CFR §273.15 and §273.18; *FoodShare Wisconsin Handbook, §7.3.1.8*. This legal standard of review means, simply, that "it is more likely than not" that the overpayment occurred. It is the lowest legal standard in use in courts or tribunals. The recipient may then offer any documents or testimony that rebuts any part of the agency claim. The agency, likewise, may then choose to submit other documents or testimony to address and attempt to rebut the defenses raised by the recipient.

The Department's case was based on the best evidence available to it and based on wage match discrepancies showing wages to the household exceeding the budgeted amount and the reporting requirement amount. The agency sought more information from the petitioner but she did not respond to the agency inquiry for more information to rebut the data discrepancy.

The agency demonstrated its calculations on a detailed overpayment worksheet. It also provided the data from which it determined the wage discrepancy. The reporting requirement was clearly stated on the notice mailed to petitioner in March 2025.

Petitioner's household income, according to the employer-provided wage data, was far in excess of the FS income in every month of the overpayment. Petitioner repeatedly stated confusion with the overpayment calculation and suggested that the agency miscalculated. First, for FS purposes, biweekly income is treated by averaging the two paychecks, and multiplying by 2.15 to account for an average of 4.3 weeks per month. Additionally, the income that was used was based on information from the employer. Petitioner certainly could have provided other income documentation if petitioner had other information.

Petitioner also repeatedly suggested that petitioner provided all necessary information and did not misrepresent income. But, as stated above, fault does not matter. The only issue is whether petitioner was issued more FS than he should have been getting given his correct income. Even if the agency erred this overpayment would be recoverable. Furthermore, petitioner seems to ignore the fact that the agency relied on the paystubs petitioner provided for an anomalous month when petitioner earned only \$1,400. In all other months petitioner earned around \$3,000 or more. Petitioner clearly received more FS than petitioner should have received because his income was double what the agency thought petitioner was earning.

This was not a close case. Petitioner also seemed to feel that the onus should be on the county for not catching her error sooner. Petitioner had no valid argument.

There was no persuasive rebuttal of the Department's case.

CONCLUSIONS OF LAW

The agency was correct in the determination of the overpayment.

THEREFORE, it is **ORDERED**

That this appeal 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, 4822 Madison Yards Way, 5th Floor North, 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

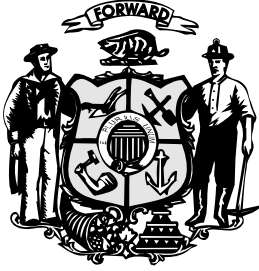
You may also appeal this decision to Circuit Court in the county where you live. Appeals must be filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of

Health Services, 201 E. Washington Ave., **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 5th day of February, 2026

\s _____
John Tedesco
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 February 5, 2026.

Marinette County Health & Human Services
Public Assistance Collection Unit
Division of Health Care Access and Accountability