



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: FOP - 220768

PRELIMINARY RECITALS

Pursuant to a petition filed on November 10, 2025, under Wis. Admin. Code §HA 3.03, to review a decision by the Milwaukee Enrollment Services regarding FoodShare benefits (FS), a hearing was held on November 25, 2025, by telephone.

The issue for determination is whether the petitioner is responsible for a FoodShare overpayment of \$584 which was incurred between August 1, 2025 and September 30, 2025, due to an administrative error.

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: Jasmine Malone, Irma Love
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Kate J. Schilling
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County. She received FoodShare benefits of \$292 per month through July 2025.

2. On June 16, 2025, the agency sent out a renewal notice indicating that the petitioner was required to complete her renewal by July 17, 2025, to avoid a gap in FoodShare benefits.
3. The petitioner did not complete her renewal; therefore, her FoodShare should have ended as of July 31, 2025.
4. Due to a computer administrative error, the petitioner continued to receive FoodShare benefits of \$292 in both August and September.
5. On September 17, 2025, the agency realized the error and the petitioner's FoodShare benefits ceased as of October 1 due to the non-renewal.
6. On September 19, 2025, the agency sent out a FoodShare Overpayment Notice that stated that the petitioner was responsible for a FoodShare overpayment of \$584 in claim number [REDACTED] which occurred between 8/1/25 and 9/30/25.
7. On October 2, 2025, a Repayment Agreement was mailed to the petitioner.
8. On November 4, 2025, a delinquent payment notice was mailed to the petitioner as she had not returned the Repayment Agreement and was not receiving FoodShare benefits at the time.
9. On November 10, 2025, the petitioner completed her FoodShare renewal and her eligibility for FoodShare was reinstated. The petitioner received \$208 in pro-rated benefits for November and was eligible for \$298 in FoodShare benefits each month thereafter.
10. As the petitioner's FoodShare was reinstated on November 10, the agency initiated a \$30 per month recoupment from benefits going forward to repay the overpayment.

DISCUSSION

The federal regulations that govern the FoodShare ("FS") program require the agency to take action to establish a claim against any household that received an overpayment of FS regardless of whether that overpayment occurred as a result of 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); *FoodShare Wisconsin Handbook (FS Handbook)*, § 7.3.1.

When the overpayment occurs due to agency error or unintentional client error, the agency may generally recover that portion of the overpayment issued during the 12 months prior to the date the agency discovered the overpayment. However, if the overpayment results from a recipient's intentional program violation (IPV), the agency may go back up to 72 months for the overpayment. See *FS Handbook* § 7.3.1.5 and 7.3.1.6. This is referred to as the "lookback period." In other words, a FS recipient who receives benefits to which they are not entitled during the 12 or 72 months prior to the agency's discovery of that overpayment is required to repay those benefits.

In this case, the petitioner failed to complete her FoodShare renewal by July 31, 2025. Failure to complete a renewal by the end of the certification period typically results in FoodShare benefits ending. *FS Handbook* § 2.2.1. Due to an unexplained computer error, the petitioner's FoodShare benefits remained open in August and September despite the lack of renewal. The agency realized the error on September 17, 2025, and closed the petitioner's FoodShare benefits as of October 1, 2025. The petitioner

ultimately completed her FoodShare renewal on November 10, 2025, and her FoodShare benefits were reinstated going forward.

The agency determined that the overpayment was due to an administrative error and not the fault of the petitioner. However, regardless of fault, the agency is required to collect the overpaid benefits pursuant to state and federal rules. The petitioner received \$292 in FoodShare benefits for both August and September despite the fact that she did not complete her FoodShare renewal by July 31, 2025. Therefore, she was not eligible for benefits during those months and must repay this amount to the agency.

This is an unfortunate circumstance as occasionally a renewal is forgotten and the lapse of the monthly allotment of FoodShare benefits is often what prompts the person to recognize and correct the issue. However, in this case, the monthly allotment of benefits continued beyond the certification period due to a computer error. Nevertheless, the relevant laws on this matter are clear, and there is no discretion or authority for me to make an exception. I do not have equitable powers and cannot waive or reduce the overpayment. "An agency or board created by the legislature has only those powers which are expressly or impliedly conferred on it by statute. Such statutes are generally strictly construed to preclude the exercise of power which is not expressly granted. [citation omitted]" *Browne v. Milwaukee Board of School Directors*, 83 Wis.2d 316, 333, 265 N.W.2d 559 (1978).) As an administrative law judge, I do not have authority to render a decision on the basis of fairness or equity.

CONCLUSIONS OF LAW

The agency correctly determined that the petitioner is liable for a FoodShare overpayment of \$584.

THEREFORE, it is

ORDERED

That the appeal 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, 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.

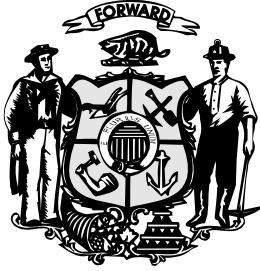
APPEAL TO COURT

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 January, 2026

\s _____
Kate J. Schilling
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
5th Floor North
4822 Madison Yards Way
Madison, WI 53705-5400

Telephone: (608) 266-7709
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on January 5, 2026.

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