



FH  
[REDACTED]

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

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In the Matter of:

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/170871

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**PRELIMINARY RECITALS**

Pursuant to a petition filed December 18, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Columbia County Health & Human Services ["County"] in regard to FoodShare benefits ["FS"], a Hearing was held via telephone on January 12, 2016. The Hearing for this matter was held at the same time as the Hearing for the following closely related matter concerning the same petitioner: BCS-170872.

The issue for determination is whether it was correct to discontinue petitioner's FS effective December 1, 2015.

There appeared at that time via telephone 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: [REDACTED], Fraud Investigator  
Columbia County Health & Human Services  
2652 Murphy Rd  
P.O. Box 136  
Portage, WI 53901

**ADMINISTRATIVE LAW JUDGE:**

Sean P. Maloney  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Columbia County, Wisconsin.
2. Petitioner lives in a home that is approximately 4700 square feet in size and has 6 or 7 bedrooms. Exhibit A.
3. The County has information that petitioner receives income by renting out space in her home to others; this information includes County records showing that others claim they are paying rent and statements by petitioner's adult son who lives in petitioner's home. Exhibits #A-0 & #A-2.
4. The County sent petitioner a letter dated October 29, 2015 and entitled *Notice of Proof Needed*; that letter requested petitioner provide proof of what rental income, if any, she is receiving; the letter gave a due date of November 9, 2015; this same request was made verbally to petitioner on more than 1 occasion. Exhibits #A-0 & #A-1.
5. Petitioner has refused to cooperate with the County and has not provided proof of what rental income, if any, she is receiving, Exhibit #A-3.
6. The County sent petitioner a letter notice dated November 16, 2015 and entitled *About Your Benefits*; that letter notice informed petitioner that her FS would be ending December 1, 2015 because she did not provide the required proof. Exhibit #A-1.

**DISCUSSION**

The County is required to verify certain factors relating to FS -- including household income if questionable. 7 C.F.R. § 273.2(f)(1)(i) (2016); See also, 7 C.F.R. §§ 273.2(f)(2)(i) & (f)(8)(i)(A) (2016); *FoodShare Wisconsin Handbook* ["FS Handbook"] 1.2.6.1. The County must verify all factors of eligibility which are questionable. 7 C.F.R. § 273.2(f)(2)(i) (2016). The applicant has primary responsibility for providing verification and to resolve questionable information. 7 C.F.R. § 273.2(f)(5)(i) (2016); FS Handbook 1.2.1.3; *Income Maintenance Manual* ["IMM"] 9.1.3.3. However, the County must assist the household in obtaining verification and resolving questions as long as the household has not refused to cooperate. *Id.* For a determination of refusal to be made the household must be able to cooperate, but clearly demonstrate that it will not take actions that it can take. For example, to be denied for refusal to cooperate a household must refuse to be interviewed, not merely fail to appear for the interview. If there is any question as to whether the household has merely failed to cooperate, as opposed to refused to cooperate, the household shall not be denied, and the agency must provide assistance. 7 C.F.R. §§ 273.2(d)(1) & 273.2(f)(5)(i) (2016).

In this case the County discontinued petitioner's FS because petitioner has refused to provide the required proof. The County was correct to do so. Petitioner claims that the rental income is going to a nonprofit agency, and not to her. There is documentation showing that the nonprofit agency exists -- but there is no documentation (or other proof) that the income is going to that agency (and not to petitioner). See, Exhibits #A-3, #A-4 & B. Petitioner has not cooperated in providing such documentation. On the other hand, there is substantial evidence that petitioner is receiving the rental income. See, Exhibits #A-0 & #A-2.

Finally, petitioner claims not to have received the October 29, 2015 *Notice of Proof Needed* letter. This is not credible. There was testimony at the Hearing that petitioner is not truthful at times and has lied. Further, the same request for proof was made verbally to petitioner on more than 1 occasion.

**CONCLUSIONS OF LAW**

For the reasons discussed above, it was correct to discontinue petitioner's FS effective December 1, 2015.

**NOW, THEREFORE, it is**

**ORDERED**

That 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 4th day of February, 2016

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\sSean P. Maloney  
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 4, 2016.

Columbia County Health & Human Services  
Division of Health Care Access and Accountability