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[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: FOO - 174737

PRELIMINARY RECITALS

Pursuant to a petition filed on June 1, 2016, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services regarding FoodShare benefits (FS). The hearing was held on June 22, 2016, by telephone.

The issue for determination is whether the agency correctly discontinued Petitioner's FoodShare.

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, WI53703

By: [REDACTED]
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

David D. Fleming
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner was notified that her FoodShare were to end June 1, 2016. The benefits were initially going to be discontinued for failing to provide verification; that verification was, however, received at some point. In fact, benefits were ultimately discontinued because of household income in excess of FoodShare limits.

3. Petitioner was living with her son and the agency learned that he had obtained employment. Verification was requested on April 14, 2015. The agency did not receive that verification and informed Petitioner that her FoodShare would close on June 1, 2016 for lack of verification.
4. On May 25, 2016 Petitioner reported an address change to the agency. She had moved into a residence with her son and his father. She provided a copy of the lease on May 26, 2016.
5. The agency processed Petitioner's changes – address, household composition and income. This resulted in the FoodShare discontinuance as of June 1, 2016.
6. The agency determined Petitioner's household size to be 3 – Petitioner, her son and the father of her son. Petitioner's son is under age 22 (DOB 7/26/96).
7. The agency determined household income to be \$3815.43. See Exhibit # 2.
8. The gross income limit for a household of three is \$3350.00. See *FoodShare Wisconsin Handbook*, §8.1.1.1.
9. The agency did test Petitioner's net income against the FoodShare limit for her household. It credited the following deductions – a standard deduction of \$155.00 and an earned income deduction of 20%. Shelter expenses did not exceed half of this adjusted income so there was no shelter deduction.

DISCUSSION

FoodShare law and policy require that certain individuals be included in the FoodShare group regardless of whether they purchase food and prepare meals together. This includes parents and their biological children under age 22. 7 CFR 273.1(b)(1); *FoodShare Eligibility Handbook (FSH)*, §3.3.1.3. The income of all members must be included in determining eligibility and allotment levels. *FSH*, §4.3.1.

Petitioner testified that she has no relationship with the father of her son and moved in with him and their son as she lost her house to foreclosure. The relationship rules require, however, that all three be in the same household for FoodShare eligibility purposes.

To receive FoodShare benefits a household must have income below gross and net income limits though the gross income test does not apply where a household has an elderly, blind or disabled member. 7 Code of Federal Regulations (CFR), §273.9(b); *FoodShare Wisconsin Handbook (FSH)*, § 1.1.4. The agency must budget all income of the FS household, including all earned and unearned income. 7 CFR § 273.9(b); *FoodShare Wisconsin Handbook (FSH)*, § 4.3.1. The allotment calculation is based on prospectively budgeted monthly income using estimated amounts. *FSH*, §4.1.1.

The gross income limit for a household of one is \$3350.00. *FSH*, §8.1.1.1. Petitioner's household has gross income in excess of this amount. As the father of Petitioner's son is over age 60 the agency also tested the case against FoodShare net income limits. The calculation is as follows:

- (1) a standard deduction - which currently is \$155 per month for a household of 1-3 persons, 7 CFR § 273.9(d)(1);
- (2) an earned income deduction - which equals 20% of the household's total earned income, 7 CFR § 273.9(d)(2);
- (3) certain medical expenses – for medical expenses exceeding \$35 in a month for an elderly or disabled person, 7 CFR § 273.9(d)(3);
- (4) dependent care deduction for child care expenses, 7 CFR § 273.9(d)(4); and
- (5) shelter and utility expenses deduction – the utility expense requires that a household have an actual utility obligation and is a standard deduction based on that obligation (\$446.00 where there is a heat obligation); the deduction is equal to the excess expense above 50% of net

income remaining after other deductions. 7 CFR § 273.9(d)(5). There is a cap of \$478.00 on the shelter cost deduction unless a household has an elderly [60 or older], blind or disabled member. FSH, §§ 4.6.7.3 and 8.1.3.

Having reviewed this I do not find any errors. The agency correctly discontinued Petitioner's FoodShare.

CONCLUSIONS OF LAW

That the agency correctly determined Petitioner's household composition and correctly discontinued FoodShare because of income in excess of FoodShare income limits.

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, 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 Milwaukee,
Wisconsin, this 26th day of July, 2016

\s _____
David D. Fleming
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 July 26, 2016.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability