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[REDACTED]

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

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In the Matter of

[REDACTED]

DECISION

FOO/143334

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**PRELIMINARY RECITALS**

Pursuant to a petition filed August 24, 2012, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regards to the discontinuance of FoodShare benefits (FS), a telephone hearing was held on September 26, 2012, at Milwaukee, Wisconsin. At the request of the county agency, the record was held open for 10 days for the submission of additional information.

The issue for determination is whether the Department, by its agents, correctly discontinued the petitioner's FS effective September 1, 2012, due to household income in excess of the net income limit.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: Catherine Mays  
Milwaukee Enrollment Services  
1220 W Vliet St  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Kenneth D. Duren, Assistant Administrator  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County. She was receiving \$145 of FS in August, 2012, for a 1 person FS household.
2. On July 23, 2012, the Department issued a Notice to the petitioner informing her that her FS would be discontinued, effective September 1, 2012, due to income in excess of program limits. The notice stated it was because she was getting more child support.

3. On August 24, 2012, the petitioner filed an appeal with the Division of Hearings & Appeals, and her benefits were continued pending the hearing decision.
4. The petitioner works 31.5 hours per week at \$9 per hour and is paid weekly, and admitted this is so at the hearing. She was receiving \$825 in Social Security benefits in September, 2012, plus \$194 per month in child support, or total unearned income of \$1,019 per month. The petitioner's rent is \$550 per month. See, Exhibit #4, at pp. 3-5. In particular, the Cares Worker Web screen for Child Support shows that the Data Exchange records show the petitioner is paid \$194 in child support at present. See, Exhibit #4, at p. 3.
5. The county agency computed the petitioner's FS eligibility as shown in Exhibit #4, at p. 2, for September, 2012. Her gross income was determined to be \$2,238.05. After deduction for the earned income deduction (\$243.81), standard deduction (\$147), and the excess shelter expense deduction (\$70.38), she had net adjusted income of \$1,776.86. The agency did not count any child support in the FS budget (or the QMB budget in the companion appeal).
6. The petitioner's rent is \$550. The agency allowed the Standard Utility Allowance (SUA) of \$444 in the computations of her FS eligibility. Her shelter costs (combined rent and SUA) of \$994 exceeded  $\frac{1}{2}$  of her net adjusted income (\$923.62) by an excess of \$70.38. She does not have dependent care expenses or reported excess medical expenses exceeding \$35 per month.

### DISCUSSION

The net income limit for a FS household of 1 person is \$908. *FoodShare Wisconsin Handbook*, App. § 8.1.1. Here, the agency determined that the petitioner had earned income of \$1,219.05, using the weekly pay multiplier of 4.3 weeks times her reported pay rate of \$9 for 31.5 hours per week. ( $\$9 \times 31.5 \times 4.3 = \$1,209.05$ ). The agency added the petitioner's Social Security benefit (effective September, 2012) of \$825, plus child support of record of \$194 per month, to arrive at \$1,019 in unearned income, or a total gross countable income of \$2,238.05. ( $\$1,219.05$  [earned income] + \$1,019 [unearned income] = \$2,238.05). From this, the agency deducted the standard deduction for a one person household of \$147, a 20% earned income deduction of \$243.81, and an excess shelter expense deduction of \$70.38. The petitioner has no dependent care expenses and no reported regular excess medical expenses exceeding \$35. Those are the five categories of allowed deductions from income for FS purposes. The petitioner has not pointed to any specific error with any credibility or accuracy. (I reviewed the excess shelter deduction. This deduction is the amount by which rent (here \$550) plus the Standard Utility Allowance (\$444), exceeds  $\frac{1}{2}$  of adjusted income after the standard and earned income deductions. In this case,  $\frac{1}{2}$  of adjusted income is \$923.62. Rent and utility costs equal \$994. ( $\$994$  [shelter costs] -  $\$923.62$  [ $\frac{1}{2}$  adjusted income] =  $\$70.38$  [excess shelter expense].) Thus, the excess shelter expense is \$70.38, exactly as determined by the agency. The 4.3 multiplier is used in the FS program to estimate monthly income for a person paid weekly, and the agency is required to do so under Wisconsin FS policy. Following this computation, the agency determined that the petitioner's 1 person FS household has net adjusted income after allowable disregards of \$1,776.86, and because this exceeds the net income limit for 1 person of \$908, she was found ineligible for FS beginning September 1, 2012. The Data Exchange records support that child support of \$194 per month is received. See, Exhibit #4, at p. 3. I have reviewed the FS computations and can find no error. See, Exhibit #4, at p. 2. Nor has the petitioner identified any error under the computations required by law. The agency action must be affirmed. The instant appeal is dismissed.

### CONCLUSIONS OF LAW

That the county agency correctly discontinued the petitioner's FS effective September 1, 2012, because her net income of \$1,776.86 exceeded the net income limit for 1 person of \$908.

**THEREFORE, it is**

**ORDERED**

That the petition for review herein be, and the same hereby is, dismissed.

**REQUEST FOR A REHEARING**

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found 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 appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Madison,  
Wisconsin, this 3rd day of October, 2012

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Kenneth D. Duren, Assistant Administrator  
Administrative Law Judge  
Division of Hearings and Appeals

c: Milwaukee Enrollment Services - email  
Department of Health Services - email



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

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The preceding decision was sent to the following parties on October 3, 2012.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability