



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]

DECISION

FOO/143499

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**PRELIMINARY RECITALS**

Pursuant to a petition filed August 30, 2012, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Sauk County Department of Human Services in regard to FoodShare (FS) benefits, a hearing was held on September 27, 2012, at Baraboo, Wisconsin.

The issue for determination is whether the respondent correctly denied petitioner's FS benefits application.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]

Respondent:

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

By: Jatinder Singh

Sauk County Department of Human Services  
505 Broadway, 4th Floor  
PO Box 29  
Baraboo, WI 53913

**ADMINISTRATIVE LAW JUDGE:**

Peter McCombs (telephonically)  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Sauk County.

2. Petitioner applied for FS benefits for a household of four on July 25, 2012. Respondent denied that application on or about August 27, 2012, due to household income exceeding FS program limits.
3. Respondent also notified petitioner that it denied FS benefits to [REDACTED] because it found that he was not a United States citizen or eligible immigrant.
4. Petitioner’s household income at the time of application was calculated as follows:
 

Petitioner:	[REDACTED]	283.12, bi-weekly
Petitioner:	[REDACTED]	\$206.25, bi-weekly
[REDACTED]:	[REDACTED]	\$476.03, weekly.
5. Respondent determined that petitioner’s gross income was \$2,280.30 monthly, and net (“counted”) income was \$1,860.80.

**DISCUSSION**

Petitioner resides with [REDACTED] and her two minor children. However, the respondent considers the family to consist of three members, due to Mr. [REDACTED]’s citizenship/immigration status. Prior to August, 1996, a legal alien could receive FS. See, for example, FS Handbook, § 4.2.0 (1-1-94). However, federal law changed so that now a "qualified alien" is not allowed to receive FS unless he fits into a specifically stated exception. FS Handbook, § 3.12.1.1. There is no evidence that the excluded family member, [REDACTED] fits into any of these exceptions.

Just because a non-citizen is ineligible for FS does not mean that his income cannot be counted for FS purposes for the remaining members of his family who are eligible for FS. The FS Handbook, § 4.7.3, provides that the income of an ineligible family member may be deemed to the family members who are eligible. The income is deemed by taking the ineligible member’s income, dividing by total household members, then multiplying by the number of eligible household members. FS Handbook, § 4.5.5.1.

If Mr. [REDACTED]’s income was \$476.03 per week, the monthly total would be that amount times 4.3 (4.3 because there are slightly more than 4 weeks in a month). His monthly income thus would be \$2,046.93. That amount would be divided by 4 and then multiplied by 3. Thus \$1,535.20 would be deemed to the three FS household members. After adding petitioner’s reported income and subtracting appropriate deductions, net income for the household of three was approximately \$1,860.80. A three person household with net income exceeding \$1,545.00 is not eligible for FS benefits. See FS Handbook, App. 8.1.2.

Petitioner also argues that her employment was only temporary, and that she had informed the respondent of this. Whether or not a position is temporary does not change the fact that the wages constitute earned income, and is counted. FS Handbook § 4.3.2.

I must conclude, therefore, that the county correctly denied FS based upon the household income when petitioner applied. I would note that petitioner indicated that she was no longer employed as of the date of the hearing. If that is the case, or should that become true in the future, she is advised to contact the county agency and re-apply.

**CONCLUSIONS OF LAW**

The county correctly calculated petitioner’s household income, and as a result net (counted) income was over the FS limit.

**NOW, THEREFORE, it is ORDERED**

That the petition for review herein be and the same is hereby 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, 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 24th day of October, 2012

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Peter McCombs  
Administrative Law Judge  
Division of Hearings and Appeals



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

David H. Schwarz  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on October 24, 2012.

Sauk County Department of Human Services  
Division of Health Care Access and Accountability