



FH
[REDACTED]

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

In the Matter of:

[REDACTED]

DECISION

FOO/143990

PRELIMINARY RECITALS

Pursuant to a petition filed September 21, 2012 under Wis. Admin. Code § HA 3.03 (September 2001), to review a decision by the Milwaukee County Department of Health and Human Services ["County"] in regard to Food Stamps ["FS"], a Hearing was held via telephone on October 16, 2012.

The issue for determination is whether the County was correct to discontinue petitioner's FS effective October 1, 2012.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Department of Health Services

Room 651

1 West Wilson Street

P.O. Box 7850

Madison, Wisconsin 53707-7850

BY: Belinda Bridges, Income Maintenance ["IM"] Specialist, Advanced

Milwaukee County Department of Health and Human Services

1220 West Vliet Street

Milwaukee, Wisconsin 53205

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney

Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County, Wisconsin.
3. There are 6 people in petitioner's FS household.
4. Petitioner's FS household has total monthly gross income of at least \$6,300 consisting of earned income of petitioner's wife and petitioner's disability benefits.
5. By an *About Your Benefits* notice dated September 17, 2012 the County discontinued petitioner's FS effective October 1, 2012 because his household income is over the FS program limit.

DISCUSSION

The FS program has eligibility criteria based on both gross and net incomes. see, 7 C.F.R. § 273.9(a) (2011); *FoodShare Wisconsin Handbook* ["FWH"] 1.1.4 & 4.3.1. Petitioner's income exceeds the gross income limit.¹

Petitioner lives in a 6-person household. see, 7 C.F.R. § 273.1 (2011); FWH 3.3.1. et. seq. The gross income limit for a 6-person FS household is, at most, \$5,162 per month. FWH 8.1.1.1; see also 7 C.F.R. § 273.9(a)(1)(i) (2011). Petitioner's FS household income exceeds this limit. Petitioner does not dispute this. Therefore, petitioner's FS was properly discontinued.

Petitioner testified that he fell behind in his bills when his wife broke her leg last summer and was unable to work for a period of time (she is now back to work). He testified that he has fallen behind "big -time" on his bills and has suffered a series of misfortunes including having his van "blow -up" and catch fire. Petitioner's circumstances are every sympathetic -- but do not change the income eligibility criteria for FS as detailed above.

CONCLUSIONS OF LAW

For the reasons discussed above, the County was correct to discontinue petitioner's FS effective October 1, 2012.

NOW, THEREFORE, it is

ORDERED

That the petition herein be and the same is hereby DISMISSED.

¹ It appears that petitioner's income also exceeds the net income limit.

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 served and 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 5th day of November, 2012

Sean 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 November 5, 2012.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability