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[REDACTED]

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

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In the Matter of

[REDACTED]

DECISION

FOO/144166

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**PRELIMINARY RECITALS**

Pursuant to a petition filed September 28, 2012, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on October 24, 2012, at Milwaukee, Wisconsin.

The issue for determination is whether the county agency erred when it removed two of petitioner's minor children from petitioner's FS household due to petitioner's failure to provide verification information .

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: Belinda Bridges

Milwaukee County Department of Human Services  
1220 W. Vliet Street  
1st Floor, Room 106  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Peter McCombs

Division of Hearings and Appeals

**FINDINGS OF FACT**

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

2. On July 19, 2012, the county agency forwarded to petitioner a Notice of Proof Needed, which informed petitioner that she needed to provide a copy of applications for Social Security Cards or other Social Security Administration documents for two of her minor children no later than July 30, 2012.
3. On August 6, 2012, the county agency issued a negative notice of decision to petitioner informing that her FS benefits would be reduced from \$639 to \$336 effective September 1, 2012, because petitioner failed to provide social security numbers, or evidence of an application for social security numbers, for two of her minor children. The failure to provide verification resulted in a decrease in the size of petitioner's household.
4. On September 28, 2012, petitioner filed an appeal with the Division of Hearings & Appeals.
5. In September, 2012, the county agency received Social Security Number verifications for two of petitioner's minor children, and they were again added to petitioner's FS household.

### DISCUSSION

The FoodShare Eligibility Handbook (FEH) provides directives to county agencies which set forth the agency and client responsibilities when processing an FS application or review. The handbooks also instruct that county agencies request verification of any questionable items when processing reviews. FEH § 1.2.5, BC+ § 9.1. Written notices of requested verification are to be issued and clients are to be assisted in obtaining verification if they have difficulty in obtaining that information. FEH § 1.2.1.2.

A food unit participating or applying for FS and MA must provide the SSN Social Security Number of each food unit member who is requesting benefits. Individuals without a SSN must apply for one before certification. Failure to provide a SSN will disqualify the person without the SSN. 7 CFR § 273.6, FEH § 3.13.1.

A recipient may not be penalized for failing to comply in a timely manner with FS verification requirements if the recipient can demonstrate good cause for failing to comply in a timely manner with the verification requirement. FEH § 1.2.1.3. Moreover, the FEH requires that all programs affected be denied or reduced when a client has been given a proper written verification request, the information is needed to determine current eligibility, the client has the power to produce the verification, and the proper time limit for verification has passed without production of the requested verification. FEH § 1.2.1.2. The handbooks also tell the worker that the FS case will close effective the last day of the review month at adverse action of the review month if the review is not completed, including confirmation. FEH § 2.2.1.4.

In a Fair Hearing concerning the propriety of an overpayment of benefits, such as this, the county agency has the burden of proof to establish that the action taken by the county was proper. Petitioner must then rebut the agency's case and establish facts sufficient to overcome the evidence of correct action by the agency in determining the discontinuance action was required.

In this case, the county agency established that two of petitioner's minor children were ineligible for FS benefits because petitioner had not provided the children's social security numbers, or evidence of an application for social security numbers. Petitioner argues that she never received the Notice of Proof Needed, and asserted that she and a rear neighbor share an address. Presumably, this neighbor received petitioner's mail, and did not provide that to her. Unfortunately, petitioner presented no corroborating evidence of the two residences sharing a single address, and could only provide verbal assertions that she had contacted the Post Office about her mail delivery concerns. I do not find petitioner's testimony to be

sufficient to overcome the established propriety of the county agency's determination in this case. Therefore, I must conclude that the county agency did not err in removing two of petitioner's minor children from her FS household, and consequently reducing her FS benefits.

**CONCLUSIONS OF LAW**

1. The county agency correctly removed two of petitioner's minor children from her FS household, due to petitioner's failure to timely submit requested verification of said children's Social Security numbers and/or Social Security number applications.
2. The county agency properly reduced petitioner's FS benefits based upon the reduction in petitioner's FS household size effective September 1, 2012.

**NOW, 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 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 13th day of November, 2012

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Peter McCombs  
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 13, 2012.

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