



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]

DECISION

FOO/144360

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**PRELIMINARY RECITALS**

Pursuant to a petition filed October 08, 2012, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Fond Du Lac County Department of Social Services in regard to FoodShare benefits (FS), a Hearing was held via telephone on October 30, 2012.

The issue for determination is whether it was correct to discontinue petitioner's FS effective October 1, 2102.

There appeared at that time via telephone the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]

Respondent:

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

By: Deb Bohlman, ESS  
Fond Du Lac County Department of Social Services  
87 Vincent Street  
Fond Du Lac, WI 54935 -4595

**OTHER PERSON PRESENT:**

[REDACTED], petitioner's husband

**ADMINISTRATIVE LAW JUDGE:**

Sean P. Maloney  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Fond Du Lac County.

2. There are 2 people in petitioner's FS household (petitioner and her husband).
3. Petitioner's FS household has total monthly gross income of at least \$3,000 consisting of earned income of petitioner's Unemployment Insurance ["UI"] and self-employment income of petitioner's husband.
4. By an *About Your Benefits* notice dated September 14, 2012 the County discontinued petitioner's FS effective October 1, 2012 because her 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.

Petitioner lives in a 2-person household. see, 7 C.F.R. § 273.1 (2011); FWH 3.3.1. et. seq. The gross income limit for a 2-person FS household is, at most, \$2,522 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 she was being "penalized" because depreciation is not allowed when calculating self-employment income. See, FWH 4.3.3.5.3. Petitioner testified that she "knows it is the law, but it is not right." Petitioner's feelings are understandable, but do not change the fact that depreciation is not allowed when calculating self-employment income.

### 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.

### **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 15th day of November, 2012

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/sSean 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 15, 2012.

Fond Du Lac County Department of Social Services  
Division of Health Care Access and Accountability