



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]

DECISION

FOO/144497

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**PRELIMINARY RECITALS**

Pursuant to a petition filed October 11, 2012, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Chippewa County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on November 28, 2012, at Chippewa Falls, Wisconsin.

The issue for determination is whether the county agency correctly included the petitioner's parents' income when determining his FoodShare allotment.

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: Elizabeth Makar

Chippewa County Department of Human Services  
711 N. Bridge Street  
Chippewa Falls, WI 54729-1877

**ADMINISTRATIVE LAW JUDGE:**

Michael D. O'Brien  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. The petitioner (CARES # [REDACTED]) is a resident of Chippewa County.
2. The petitioner applied for FoodShare on July 16, 2012.
3. The petitioner lives with his parents. He and his parents purchase and prepare food together.

4. When the income of the petitioner's parents is included, the petitioner's household income exceeds 200% of the federal poverty level.

### **DISCUSSION**

A FoodShare household consists of one or more persons who live in the same household and purchase and prepare food together for home consumption. 7 CFR § 273.1(a)(3); *FoodShare Wisconsin Handbook* § 3.3.1. "Most FoodShare groups are considered categorically eligible if their gross income is at or below 200%" of the federal poverty level. *FoodShare Wisconsin Handbook*, § 4.2.1.1. The only exceptions to this rule are for those with felony drug convictions or who have been found to have committed an intentional policy violation of the program. *Id.* Household income includes all income from any source unless FoodShare regulations specifically exclude it. 7 CFR § 273.9(a)(b).

The petitioner, who is 25, lives with his parents as he recovers from some financial setbacks. He concedes that he and his parents purchase and prepare food together and that if their income is counted, his household income makes him ineligible for FoodShare. Nevertheless, he requests an exemption from the FoodShare rules until he regains his financial footing. Although I commend him for the steps he is taking to overcome past errors, I have no authority to ignore FoodShare rules. Therefore, I must uphold the agency's denial of his benefits.

### **CONCLUSIONS OF LAW**

1. The county agency correctly counted the income of the petitioner's parents because he purchases and prepares food with them.
2. The petitioner's household income exceeds the program's gross income limit.

**THEREFORE, it is**

**ORDERED**

The petitioner's appeal 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 3rd day of December, 2012

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\sMichael D. O'Brien  
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 December 3, 2012.

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