



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]

DECISION

FOO/144532

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**PRELIMINARY RECITALS**

Pursuant to a petition filed October 15, 2012, under Wis. Admin. Code, §HA 3.03(1), to review a decision by the Rock County Dept. of Social Services to deny FoodShare benefits (FS), a hearing was held on November 20, 2012, by telephone.

The issue for determination is whether petitioner is ineligible for FS because of his immigration status.

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]

Respondent:

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

By: Sherry Quirk  
Rock County Dept. of Social Services  
1900 Center Avenue  
P.O. Box 1649  
Janesville, WI 53546

**ADMINISTRATIVE LAW JUDGE:**

Brian C. Schneider  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Rock County.
2. Petitioner applied for FS on June 18, 2012. By a notice dated July 12, 2012, the county denied FS because petitioner is an ineligible immigrant.
3. Petitioner was lawfully admitted for permanent residence on August 19, 2010.

### **DISCUSSION**

To be eligible for FS, a person must be a U.S. citizen, a qualifying alien, or a member of certain specified classes of immigrants or refugees, none of which apply in this case. 7 C.F.R. §273.4(a). Importantly for this case, an alien lawfully admitted for permanent residence is not eligible for FS for five years from the date of lawful admittance for permanent residence. 7 C.F.R. §274.4(a)(6)(iii). The requirements for eligibility for immigrants also are set out in the FS Handbook, Appendix 3.12.1.1, Chart 1. To be eligible for FS a person must reside in this country as a “qualified alien” for five years, and a “qualified alien” is specifically defined as a person lawfully admitted for permanent residence. Individuals who are eligible without the five year wait are asylees, refugees, certain Cubans and Haitians, Amerasians, and victims of trafficking.

Petitioner does not come under any of the immigrant statuses that would allow for eligibility earlier than five years. I must conclude that the denial was correct.

### **CONCLUSIONS OF LAW**

Petitioner is ineligible for FS because he is an alien lawfully admitted to the U.S. for permanent residence for less than five years.

**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 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 23rd day of November, 2012

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\sBrian C. Schneider  
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 23, 2012.

Rock County Department of Social Services  
Division of Health Care Access and Accountability