



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

FOO/144570

PRELIMINARY RECITALS

Pursuant to a petition filed October 15, 2012, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Marathon County Department of Social Services in regard to FoodShare benefits (FS), a hearing was held on January 03, 2013, at Wausau, Wisconsin.

The issue for determination is whether respondent properly terminated petitioner's FS benefits due to household income exceeding program limits.

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: Nu Vue

Marathon County Department of Social Services
400 E. Thomas Street
Wausau, WI 54403

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Marathon County.
2. On October 8, 2012, petitioner submitted a Six Month Report form (SMRF), which disclosed that [REDACTED] was residing with petitioner. The SMRF indicated that Mr. [REDACTED] had no income.

3. Respondent added Mr. [REDACTED] to the case, and a data exchange indicated that Mr. [REDACTED] was receiving weekly Unemployment benefits.
4. Total gross income for petitioner and Mr. [REDACTED] was calculated by the respondent to equal \$3,512.83.
5. On October 11, 2012, respondent wrote petitioner indicating that her FS benefits would be ending effective November 1, 2012, due to household income exceeding the FS program limits.

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).

Respondent presented a well-documented and organized case establishing the bases for its determination of petitioner’s household income. While petitioner did not dispute Mr. [REDACTED]’s receipt of Unemployment benefits, she did note that she had contacted respondent on or about October 15, 2012, to inform respondent that Mr. [REDACTED] was no longer receiving Unemployment benefits. At that time, respondent reportedly advised petitioner to submit verification regarding Mr. [REDACTED]’s employment or ending of the Unemployment benefits. Petitioner concedes that she did not do so, and testified that her circumstances have changed again, as Mr. [REDACTED] is no longer living with her.

I conclude that the respondent has established that it correctly calculated petitioner’s household income, and correctly terminated her FS benefits effective November 1, 2012. ¹ I have reviewed those calculations and noted no errors. In light of the subsequent household changes that have occurred, petitioner is encouraged to reapply for FS benefits.

CONCLUSIONS OF LAW

1. The respondent correctly counted the income of the petitioner’s household, including the Unemployment benefits received by Mr. [REDACTED]
2. The petitioner’s household income exceeded 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

¹ Petitioner testified that she had not received FS benefits for November or December, 2012, despite notice from this office that FS benefits were to continue until a final decision was issued. Post-hearing, respondent submitted a Food Stamp Issuance History for petitioner verifying the timely issuance of FS benefits for those months.

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 29th day of January, 2013

\sPeter McCombs
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
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on January 29, 2013.

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