



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]

DECISION

FOO/144777

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**PRELIMINARY RECITALS**

Pursuant to a petition filed October 26, 2012, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Waushara County Human Services in regard to FoodShare benefits ["FS"], a Hearing was held on December 17, 2012, at Wautoma, Wisconsin. At petitioner's request a Hearing scheduled for November 20, 2012 was rescheduled.

The issue for determination is whether it was correct to disqualify petitioner from the FS program due to an Intentional Program Violation ["IPV"].

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: Kate Surprise, ESS  
Roxann Bingkowski, ESS  
Waushara County Human Services  
205 W Elm  
PO Box 1230  
Wautoma, WI 54982-1230

**ADMINISTRATIVE LAW JUDGE:**

Sean P. Maloney  
Division of Hearings and Appeals

**FINDINGS OF FACT**

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

2. On May 3, 2012 petitioner signed a *Waiver of Administrative Disqualification Hearing* which stated, in part:

“You do not have to admit to any of the charges. You have the right to remain silent concerning the charges, as anything said or signed by you could be used in a court of law.” and,

“I admit the facts as presented and understand that a disqualification penalty will be imposed if I sign this waiver, including a reduction in benefits during the disqualification period.”

Exhibit #A-6.

### **DISCUSSION**

A county may disqualify an individual from the FS program if the individual has been found to have committed the IPV or has signed a waiver or consent agreement. If disqualified, an individual will be ineligible to participate in the FS program for a specified period of time. 7 C.F.R. § 273.16(b)(1) (2011); *Food Share Wisconsin Handbook* ["FSWH"] 3.14.1. Petitioner acknowledges that on May 3, 2012 he signed a *Waiver of Administrative Disqualification Hearing*. Therefore, it was correct to disqualify petitioner from the FS program due to an IPV.

Petitioner testified that he was incarcerated and that his grandson passed away. He testified that a jailer came to him and stated that there were possible fraud charges so he signed the *Waiver of Administrative Disqualification Hearing*. The circumstances petitioner testified to are unfortunate. Nevertheless, he may be disqualified from the FS program because he signed the waiver.

### **CONCLUSIONS OF LAW**

For the reason explained above, it was correct to disqualify petitioner from the FS program due to an IPV.

**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 10th day of January, 2013

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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 January 10, 2013.

Waushara County Human Services  
Division of Health Care Access and Accountability