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[REDACTED]

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

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In the Matter of

[REDACTED]

DECISION

FOO/145466

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**PRELIMINARY RECITALS**

Pursuant to a petition filed November 26, 2012, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare (FS) benefits, a hearing was held on January 17, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether respondent correctly determined petitioner's FS 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: Katherine May

Milwaukee Enrollment Services  
1220 W Vliet St  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Peter McCombs (telephonically)  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner's income for December, 2012, was \$1,033.60 (SSDI- \$330; SSI- \$628.02; State SSI- \$83.78; and SSISE- 8.83).
3. After subtracting \$548.70 in allowable deductions, petitioner's net December, 2012, income in the amount of \$484.90 makes him eligible for an FS allotment of \$54.00

### DISCUSSION

In determining the amount of FS to be issued each month, the agency must budget all earned and unearned income of the FS household. 7 C.F.R. §273.9(b). This includes child support, Supplemental Security Income (SSI), SSDI, and W-2 payments received by household members. FoodShare Wisconsin Handbook, § 4.3.1.

FS benefits are calculated pursuant to 7 C.F.R. § 273.9. The maximum FS allotment amounts, based on household size, are listed at FoodShare Wisconsin Handbook, § 8.1. In general, a household must initially pass the so-called “gross income limit”. The FS eligibility calculation process allows for certain deductions from gross income to arrive at a “net income” then tested against a “net income limit”.

In this case, the petitioner has unearned income as noted in Finding of Fact 2, above. He passes the gross income limit test and after application of applicable deductions, qualifies for an allotment of FS benefits applicable to a household of one. The petitioner conceded the respondent’s December calculations, but noted that his shelter cost has recently changed. At the hearing, petitioner had with him documentation regarding his new rent amount, and that was provided to respondent. Respondent reviewed the document and indicated that the new information would likely result in a new allotment amount going forward, as the change in shelter cost had not been previously reported. Petitioner conceded that he had not previously reported the change.

While petitioner’s case suffered through several recalculations in late November and continuing into December, I do not find any issue with regard to the final determination for December. Respondent’s representative was very knowledgeable and helpful, and she testified credibly that her office had addressed the calculation discrepancies. However, in light of the fluid nature of the historical calculations and the lack of documentary evidence demonstrating that the final calculations were implemented in petitioner’s case, I will remand this matter to the respondent to review and re- determine petitioner’s FS budget to ensure that petitioner’s December, 2012, January, 2013, and February, 2013 benefits were properly calculated.

### CONCLUSIONS OF LAW

Petitioner is eligible for FS benefits from December, 2012 – February, 2013.

**THEREFORE, it is**

### ORDERED

That this matter shall be remanded to the respondent to review and re- determine petitioner’s FS budget to ensure that petitioner’s December, 2012, January, 2013, and February, 2013 benefits were properly calculated and issued. New notices, with appeal rights specified therein, shall be sent to petitioner in the event that the review and re-determination results in any change to petitioner’s benefits. All actions shall be completed within 10 days of this Decision.

### **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 18th day of February, 2013

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\sPeter McCombs  
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 February 18, 2013.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability