



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]

DECISION

FOO/146300

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**PRELIMINARY RECITALS**

Pursuant to a petition filed December 27, 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 January 23, 2013, at Chippewa Falls, Wisconsin. The record was left open for seven days at the petitioner's request.

The issue for determination is the county agency correctly determined that the petitioner's household income exceeds the net FoodShare limit.

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: Rhonda Kimmer

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 lives with his girlfriend, M.P., and their child.
3. M.P. earns \$150 a month from self-employment.

4. The petitioner receives \$243 in Veteran's benefits and \$2,255.33 in earned income each month.
5. The petitioner's rent is \$875 per month. He pays his own utilities.
6. One hundred percent of the federal poverty level for a three-person household is \$1,591; 200% of the federal poverty level is \$3,182. *FoodShare Wisconsin Handbook*, § 8.1.1.
7. No one in the petitioner's household is disabled.
8. The county agency determined that the petitioner's is ineligible for FoodShare because his household's net income exceeds the FoodShare program's limit.

### DISCUSSION

Eligibility for FoodShare depends upon a household's size and net income. 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. Household income means all income from any source unless 7 CFR § 273.9(c) excludes it. 7 CFR § 273.9(b). Net income is determined after subtracting those deductions—and only those deductions—found in 7 CFR § 273.9(d) from gross income. The petitioner's household consists of him, her girlfriend M.P., and their child. The most net income a three-person household can have and still receive FoodShare benefits is \$1,591. *FoodShare Wisconsin Handbook*, § 8.1.1.

The petitioner disputes the amount of gross income the agency determined he earns each month at Best Buy. The agency contends that he makes \$1,202.36 every other week, which when multiplied by 2.15 to convert it to a monthly amount gives him \$2,585.07. (Biweekly amounts are multiplied by 2.15 rather than two because dividing the 52 weeks in a year by the 12 months equals 4.3 weeks per month and not four; those paid every other week receive an average of 2.15 paychecks per month.) The petitioner testified that the two months used by the county to determine his income, November and December, overstated that income because those are Best Buy's two busiest months of the year. He provided his 2012 W-2, which shows that his total income for the year was \$27,064.02, or \$2,255.33 per month. This figure averages out his earnings' peaks and valleys. There is no evidence that he received a significant pay raise or increase in hours (other than during normally busy periods) during the year. Because of this, I find that it reflects his income more accurately than the agency's figure and will use it when determining whether his household is eligible for FoodShare.

M.P. earns \$150 per month from self-employment and the petitioner receives \$243 in Veteran's benefits. Adding these two figures to his earned income brings their gross income to \$2,648.33 per month. They are entitled to the \$149 standard deduction allowed for households with up to three members. *FoodShare Wisconsin Handbook*, §§ 4.6.2 and 8.1.3; 7 CFR § 273.9(d)(1). They are also entitled to an earned income deduction equal to 20% of their \$2,405.33 earned income, or \$481.07. See 7 CFR § 273.9(d)(2).

Finally, they are entitled to a shelter deduction available to those whose shelter costs, including a standard utility allowance set by law, exceed 50% of the net income remaining after subtracting the other deductions. *FoodShare Wisconsin Handbook*, § 4.6.7; 7 C.F.R. § 273.9(d)(6)(ii). The shelter deduction cannot exceed \$469. *FoodShare Wisconsin Handbook*, § 8.1.3. The petitioner's household net income after subtracting the standard deduction and the earned income deduction, the two other deductions that the household is entitled to, from his \$2,648.33 gross household income is \$2,018.33; half of this is \$1,009.17. The petitioner's countable shelter costs consist of rent, which is \$875 per month, plus the standard utility deduction. The standard utility allowance for those who pay their own heat is \$442. *Id.* Adding this to his rent gives makes his total countable shelter costs \$1,317. This exceeds \$1,009.17, half of her income remaining after his other deductions, by \$307.83, which is his shelter deduction. Subtracting this and the other allowable deductions from his \$2,648.33 gross household income gives him a net household income of \$1,710.50. Although this is less than the \$2,106.09 the county agency

calculated, it still exceeds the \$1,591 maximum net income limit allowed for a three-person household. Therefore, I must find that the agency correctly determined that his household is ineligible for FoodShare.

### **CONCLUSIONS OF LAW**

The petitioner is ineligible for FoodShare because his net household income exceeds the program's net 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 7th day of February, 2013

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\sMichael D. O'Brien  
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 7, 2013.

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