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[REDACTED]

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

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In the Matter of

[REDACTED]

DECISION

FOO/146448

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**PRELIMINARY RECITALS**

Pursuant to a petition filed January 07, 2013, 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 February 07, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly reduced the Petitioner's FS benefits effective January, 2013.

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: Sharon Thacker  
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 who had an ongoing FS case. Petitioner received FS benefits in the amount of \$200.00 from February, 2012, through December, 2012. In January, 2013, the FS allotment was reduced to \$16.00. Exhibit 2.

2. The Petitioner's employer submitted an Employer Verification of Earnings form (EVFE) dated December 9, 2012. Exhibit 3. The EVFE reported that petitioner was earning \$8.00 per hour, and that he was working 34 hours per week. Id.
3. After processing the EVFE, respondent timely notified petitioner on December 18, 2012, that due to increased income, petitioner's FS allotment would be reduced to \$16.00. Exhibit 3.
4. The respondent calculated the petitioner's benefits based on monthly earned income of \$1169.60 from [REDACTED], and deducted the standard deduction (\$149.00), earned income (\$233.92), and utilities (\$48.66). Exhibit 3.
5. On January 7, 2013, the Petitioner filed an appeal with the Division of Hearings and Appeals. Exhibit 1.

### DISCUSSION

As a general rule, applicants for FoodShare (FS) benefits are eligible to receive benefits provided they meet financial eligibility requirements. FS Wisconsin Handbook (FSH), §1.1.3. After passing the threshold financial eligibility requirement for gross income (the gross income limit for most households is 200% of the Federal Poverty Level (FPL). Id., 4.2.1.1, which, for a household of one, is \$1,862.00. Id., §8.1.1.) Income must be converted to a monthly amount. 7 Code of Federal Regulations, §273.10(c)2(i).

Earned income is counted for the purpose of determining FS eligibility and allotments levels. FS Wisconsin Handbook, §4.3.2. Unearned income is also counted. Id., §4.3.4.1. A standard deduction of \$149.00 is applied to all household income for a household of 1 to 3 people. Id., §4.6.2. The earned income deduction is 20%. Id., §4.6.3. These two items are deducted from gross income to arrive at adjusted household income. Shelter and utility expenses in excess of 50% of that adjusted household income is deducted. Id., §4.6.7. Also see 7 CRF 273.10 generally regarding budgeting calculations. Finally, the allotment applicable to a household is then reduced by 30% of the household's net income. 7 CFR 273.10(e)(2)(ii)(A).

The agency may use income received during the last 30 days as an indicator of the income that is and will be available to the household during the certification period, unless that income does not accurately reflect changes in income that have occurred or are anticipated to occur. The agency may also use statements from employers or an employment verification form to verify prospective income. FSH § 1.2.4.2.

I have reviewed the respondent's calculations, and have found no error. The petitioner conceded that the agency's determination was not incorrect, but argued that his hours had been reduced. The record does not demonstrate that this information was ever provided to the respondent. Furthermore, petitioner testified that he is no longer employed at [REDACTED]. Respondent offered to assist him with reporting that change post-hearing, and petitioner accepted that offer.

### CONCLUSION OF LAW

The respondent correctly calculated petitioner's FS allotment for January, 2013, pursuant to information received from petitioner's employer.

**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 22nd 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 22, 2013.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability