



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]

DECISION

FOO/146553

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**PRELIMINARY RECITALS**

Pursuant to a petition filed January 4, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Dunn County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on February 20, 2013, at Menomonie, Wisconsin.

The issue for determination is whether the county agency correctly denied the petitioner's application for FoodShare because she failed to verify information.

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: Serena Stipek

Dunn County Department of Human Services  
808 Main Street  
PO Box 470  
Menomonie, WI 54751

**ADMINISTRATIVE LAW JUDGE:**

Michael D. O'Brien

Division of Hearings and Appeals

**FINDINGS OF FACT**

1. The petitioner (CARES # [REDACTED]) is a resident of Dunn County.
2. The petitioner applied for FoodShare on September 18, 2012.

3. On September 28, 2012, the Department requested that the petitioner verify certain essential information by October 18, 2012.
4. The Department notified the petitioner on October 22, 2012, that it was denying her request for FoodShare because she had failed to provide the requested verifications.
5. The petitioner provided the requested verifications to the Central Documents Processing Unit by October 18, 2012.

### **DISCUSSION**

FoodShare applicants must verify information the agency needs to determine their eligibility. 7 CFR § 273.2(f). Agencies must give applicants the later of 10 days from the request or 30 days from the date of application to provide the information. Agencies must deny benefits to those who fail to verify information 7 CFR § 273.2(c)(5); *FoodShare Wisconsin Handbook*, § 1.2.1.2. The petitioner applied for the program on September 18, 2012, and on September 28, 2012, was given until October 18, 2012, to verify various information. The FoodShare agency denied her application on October 22, 2012, because it contends that she did not provide the verification requested of her on time. She contends that the Central Documents Processing Unit received this information before then.

The FoodShare agency relied upon the January 7, 2013, date stamped on the verification documents by the processing unit. No one from that unit testified, and it did not keep, and therefore did not submit, the envelope the documents arrived in. The petitioner's testimony that the information was submitted before October 18, 2012, is bolstered by the fact that the wage documents were signed on October 12, 2012. The burden of proof in these matters is by the preponderance of the credible evidence, a fairly low standard that requires only that a party show that it is more likely than not that what it is trying to prove is what occurred. While the proof submitted by the petitioner is not overwhelming, it does meet this standard. As a result, I find that the agency could not deny her application for failing to verify her information and must continue processing that application.

### **CONCLUSIONS OF LAW**

The petitioner is entitled to have her FoodShare application processed because the preponderance of the credible evidence indicates that she provided the verification requested of her on time.

**THEREFORE, it is**

### **ORDERED**

That this matter is remanded to the county agency with instructions that it continue processing the petitioner's September 18, 2012, FoodShare application and determine within 10 days of the date of this decision whether she is eligible for benefits. If it does find her eligible, it shall issue a supplemental payment on her first allotment for any retroactive benefits she is entitled to. The petitioner may file a new appeal if she disagrees with the agency's decision. The agency may not deny the petitioner's application for failing to verify information by October 18, 2012.

### **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 26th 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 26, 2013.

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