



FH  
[REDACTED]

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

---

In the Matter of

[REDACTED]

DECISION

FOO/146693

---

**PRELIMINARY RECITALS**

Pursuant to a petition filed January 15, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Fond du Lac County Department of Social Services in regard to FoodShare benefits (FS), a hearing was held on March 07, 2013, at Fond du Lac, Wisconsin.

The issue for determination is whether the county agency correctly discontinued the petitioner's FS effective February 1, 2013, due to excess household income.

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: Deb Bohlman, ESS  
Fond Du Lac County Department of Social Services  
87 Vincent Street  
Fond Du Lac, WI 54935-4595

**ADMINISTRATIVE LAW JUDGE:**

Nancy J. Gagnon (telephonically)  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Fond du Lac County.
2. The petitioner has an ongoing FS case for a household of three persons (including herself and adult daughter [REDACTED]). [REDACTED] is 20 years old.

3. The agency learned that [REDACTED] has earned income from a job. The agency began budgeting her income, which reduced the household's FS allotments. When the case was reviewed in December 2012, the agency realized that [REDACTED]'s income (\$746.86 every other week ) had increased to a level that rendered the household ineligible for any amount of FS.
4. On January 14, 2013, the Department issued written notice to the petitioner advising that the FS would be discontinued effective February 1, 2013. The basis for closure was excess income. The notice listed total household gross income of \$2,504.25.

### DISCUSSION

Because they reside together and share food, the petitioner and [REDACTED] were correctly placed in the same FS household by the Department. The policy states:

#### **3.3.1 Food Unit/Food Group/Relationships**

...

Households consist of all persons living in or temporarily absent from the same **residence** . ... [Such] persons who live in the same household and purchase and prepare food together for home consumption [are a food unit]. This group is tested for eligibility together. There are some exceptions for boarders, foster persons, and certain elderly and disabled individuals.

##### **Examples**

Examples of a food unit include:

1. A person living alone.
2. A group of persons living together who purchase and prepare meals together for home consumption.
3. A person (or group of persons) living with others, but who usually purchases and prepares food for home consumption separately from the others.

*FoodShare Wisconsin Handbook (FSWH)*, §3.3.1, at <http://www.emhandbooks.wisconsin.gov/fsh> .

The federal FS rule goes on to state that persons living in the same dwelling **MUST** be treated as being in the same FS household (whether they eat together or not), if they are parents, step-parents, and a child under the age of 22:

*(b) Special household requirements .--(1) Required household combinations. The following individuals who live with others must be considered as customarily purchasing food and preparing meals with the others, even if they do not do so, and thus must be **included in the same household**, unless otherwise specified:*

- (i) Spouses;*
- (ii) A person under 22 years of age who is living with his or her natural or adoptive parent(s) or step-parent(s); and*
- (iii) A child (other than a foster child) under 18 years of age who lives with and is under the parental control of a household member other than his or her parent. A child must be considered to be under parental control for purposes of this provision if he or she is financially or otherwise dependent on a member of the household, unless State law defines such a person as an adult.*

(emphasis added)

7 C.F.R. §273.1(b).

Thus, the petitioner and her daughter, age 20, must be in the same FS household, and the daughter's income must be counted as household income. The petitioner did not contest that amount of her daughter's earnings. Therefore, the agency's closure of the case for excess income was correct. If the daughter moves out of the household, loses hours, or loses her job, the petitioner may reapply for FS at any time.

### **CONCLUSIONS OF LAW**

1. The agency correctly included the petitioner's 20-year old daughter and her income in the petitioner's household and income computation.
2. The agency correctly discontinued the petitioner's FS effective February 1, 2013, due to excess income.

**THEREFORE, it is**

**ORDERED**

That the petition 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 8th day of March, 2013

---

\sNancy J. Gagnon  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin \DIVISION OF HEARINGS AND APPEALS**

David H. Schwarz  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on March 8, 2013.

Fond Du Lac County Department of Social Services  
Division of Health Care Access and Accountability