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[REDACTED]

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

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In the Matter of

[REDACTED]

DECISION

FOO/146806

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**PRELIMINARY RECITALS**

Pursuant to a petition filed January 22, 2013, under Wis. Admin. Code, §HA 3.03(1), to review a decision by the Rock County Dept. of Social Services to discontinue FoodShare benefits (FS), a hearing was held on February 26, 2013, by telephone.

The issue for determination is whether the county correctly placed a person into petitioner's FS household.

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street  
Madison, Wisconsin 53703

By: Melissa Gentz  
Rock County Dept. of Social Services  
P.O. Box 1649  
Janesville, WI 53546

**ADMINISTRATIVE LAW JUDGE:**

Brian C. Schneider  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Rock County.
2. Petitioner received FS for herself, her three children, and her grandchild until the county action. In early January, 2013, the county received information from the child support agency that petitioner's 21-year-old daughter reported that her son's father lived in petitioner's home.
3. The county added the father to petitioner's FS household and requested verification of his income with a due date of January 17, 2013.

4. The verification was not received. By a notice dated January 18, 2013, the county informed petitioner that FS would end effective February 1, 2013 because she did not provide verification.
5. Petitioner reported to the investigator that the father did not live in the home but stayed overnight 3-4 times per week.

### DISCUSSION

An FS recipient is required to verify information that can affect eligibility. 7 C.F.R. §273.2(f). If the household fails to verify required information by the time limit, the agency may deny the benefits. 7 C.F.R. §273.14(g)(3); FS Handbook, Appendix 1.2.1.2. The agency should assist the applicant if she requests assistance. FS Handbook, App. 1.2.1.3.

The federal FS regulations define FS household composition as follows:

(a) *General household definition.* A household is composed of one of the following individuals or groups of individuals, unless otherwise specified in paragraph (b) of this section:

1. An individual living alone;
2. An individual living with others, but customarily purchasing food and preparing meals for home consumption separate and apart from others; or
3. A group of individuals who live together and customarily purchase food and prepare meals together for home consumption.

7 C.F.R. §273.1(a). FS rules provide further as follows:

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.

7 C.F.R. §273.1(b)(1); see also FS Handbook, Appendix 3.3.1.2.

The issue is whether the county correctly sought verification of the father's income. It clearly was not provided, and thus if the request was appropriate the county correctly closed petitioner's FS for failing to provide the verification.

The simple answer is that the county's request was appropriate. Petitioner's daughter reported to the child support agency that her boyfriend lived in petitioner's home, and she signed a statement to that effect. The father had used petitioner's address in April, 2012 when he applied for benefits. Thus it was reasonable for the county to take the action of adding him to petitioner's household, which was required by FS rules since petitioner's daughter was under age 22, bringing her, the grandchild, and the grandchild's father into petitioner's FS unit.

Petitioner testified that he did not live in her home but stayed there 3-4 times per week. Under FS policy that amount of time spent in the home is sufficient to require his presence in the food unit.

**CONCLUSIONS OF LAW**

The county correctly added the father of petitioner's grandson to her FS household when it was reported that he lived in the home, and thus the county correctly closed FS when petitioner did not verify his income.

**THEREFORE, it is**

**ORDERED**

That the petition for review herein be and the same is hereby 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 1st day of March, 2013

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\sBrian C. Schneider  
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 March 1, 2013.

Rock County Department of Social Services  
Division of Health Care Access and Accountability