



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/147223

PRELIMINARY RECITALS

Pursuant to a petition filed February 07, 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 March 19, 2013, at Menomonie, Wisconsin.

The issue for determination is whether the petitioner can receive FoodShare in Wisconsin.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Matt Pasquerella

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 Florida.
2. The petitioner applied for FoodShare on February 18, 2013. The county agency denied his application on February 19, 2013.

DISCUSSION

FoodShare residency requirements are not strict but a person must live in the state in which he applies. 7 CFR § 273.3(a). Wisconsin policy requires that “[a]pplicants for FoodShare must reside in, or be temporarily absent from Wisconsin” and gives the following guidelines for determining residency:

1. Residence does not mean the legal place of residence or principal home.
2. Residence does not mean the intent to live permanently in Wisconsin or the county.
3. A person who is in Wisconsin or in a county solely for vacation purposes is not a resident of the county.
4. Do not require someone to reside in Wisconsin or within a county for any minimum length of time.
5. Residence does not mean a permanent dwelling or a fixed mailing address.

FoodShare Wisconsin Handbook, § 3.2.1.

The petitioner has some Wisconsin ties, but he has lived and worked in Florida for at least several months. He appeared at the hearing via a telephone call while standing in a parking lot in that state. Based upon this, I find that he does not meet even the fairly lenient residency requirements of the program. I note that nothing prevents him from applying for benefits in Florida.

CONCLUSIONS OF LAW

The petitioner is not eligible to receive FoodShare in Wisconsin because he lives in Florida.

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 March, 2013

\sMichael D. O'Brien
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
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on March 22, 2013.

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