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

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In the Matter of



DECISION

FOO/147576

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**PRELIMINARY RECITALS**

Pursuant to a petition filed February 25, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a telephonic hearing was held on April 10, 2013, at Milwaukee, Wisconsin. At the request of petitioner, a hearing set for March 21, 2013 was rescheduled.

The issue for determination is whether Milwaukee Enrollment Services (MES) correctly discontinued the petitioner's FoodShare (FS) benefits effective March 1, 2013, due to failure to report or verify correct household composition (her boyfriend in petitioner's home) and his employment and income.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:



Respondent:

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

By: Katherine May, HSPC senior  
Milwaukee Enrollment Services  
1220 W Vliet St  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Gary M. Wolkstein  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # ) is a resident of Milwaukee County who resided with her two children (third child was born March 21, 2012) creating a household of four.
2. The petitioner has three children in common with her boyfriend,  .

3. The petitioner received FoodShare (FS) benefits for a household of three and then four during 2012.
4. The petitioner participated in her review for FoodShare and Medical Assistance as a single parent with her two and then three children during January, 2012, and did not report [REDACTED] [REDACTED] as residing in her household, and thus a FS group of five.
5. The petitioner received FoodShare (FS) benefits for the entire period of January, 2012 through December, 2012.
6. During her application interview process, her six month review form (SMRF) and during her annual review, petitioner maintained that she lived alone with her minor children. Petitioner claimed that their father, [REDACTED] [REDACTED], was in and out of jail, and when not in jail alleged with no reliable documentation that he resided with a friend.
7. The petitioner failed to establish with any reliable evidence the periods of time when [REDACTED] [REDACTED] was in jail during 2012.
8. During the hearing, petitioner was not able to provide any reliable evidence that during the overpayment period [REDACTED] paid any monthly rent to any landlord or had a lease or any other contract as a rental agreement.
9. Due to a "tip" on December 5, 2012 that [REDACTED] [REDACTED] did reside in petitioner's household, MES began investigating whether the father of petitioner's three children ([REDACTED] [REDACTED]) had been residing with petitioner at least as of January, 2012, and that his income had not been timely reported to the county agency.
10. MES established with reliable records (Municipal Court, Wisconsin Circuit court, child support agency) that [REDACTED] [REDACTED] resided with the petitioner during the period of January 1, 2012 through December 31, 2012.
11. The county agency sent a January 28, 2013 Verification Request Notice to the petitioner which requested that petitioner provide to the county agency by February 6, 2013 paystubs for [REDACTED] [REDACTED]'s employment and income at [REDACTED].
12. The petitioner failed to provide that requested verification by February 6, 2013 or even by March 1, 2013.
13. Milwaukee Enrollment Services sent a February 11, 2013 Notice of Decision to the petitioner indicating that her FS benefits would discontinue effective March 1, 2013, due to failure to report her accurate household composition and failure to verify [REDACTED] [REDACTED]'s employment or income at Cooper Power Systems.
14. [REDACTED] [REDACTED] did not appear at the April 10, 2013 hearing to testify or answer questions.
15. During the April 10, 2013 hearing petitioner failed to establish that [REDACTED] [REDACTED] resided at any residence other than the petitioner's residence during 2012.

### DISCUSSION

When dealing with the issue of the provision of information by a household, there is a clearly delineated process and a case may not be denied or discontinued unless those procedures are followed. That process is to specify in writing, what information is needed, and that the client has no less than a specific period of time in which to provide it. Generally that period of time is 30 days. However, in cases involving application or review, where the 30-day processing limit would not permit this much time, the agency is to allow no less than 10 days. Furthermore, the agency is required to assist the client when the client runs into difficulty in obtaining the needed documents. (See 7 C.F.R. §273.12(c); Income Maintenance Manual (IMM), Ch. I, Part C, 5.1.0).

For the purpose of these types of hearing, a case may only be closed, or denied, for a refusal to provide information, or for failure to provide requested verification within the specified period, after a written request.

During the April 10, 2013 hearing and in its exhibits, Milwaukee Enrollment Services (MES) representative established that the county agency correctly discontinued the petitioner's FS effective April 1, 2013, due to failure to timely verify whether [REDACTED] [REDACTED] resided in her household and his employment/income information. [REDACTED] [REDACTED] failed to appear to testify or answer any questions. The petitioner testified in vague terms that Mr. [REDACTED] allegedly was in and out of jail during indefinite periods, and then lived with a friend [REDACTED] [REDACTED] during some uncertain periods during the overpayment period. Petitioner's testimony was not credible. Petitioner was unable to provide any evidence of any lease or contract of any kind for [REDACTED] [REDACTED] during the overpayment period. Furthermore, the testimony of petitioner appeared entirely unconvincing as she was unable to provide any specific dates of her allegations, and had no receipts or documents whatsoever to confirm any rental payment to any party.

The petitioner was unable to refute the county representative's testimony or documentation that her boyfriend resided in her household, and that his income must be verified in order for the county agency to determine whether petitioner continues to be eligible for any FS benefits. Based upon the hearing record, petitioner has failed to provide the requested verification to the MES about [REDACTED] [REDACTED]. Furthermore, petitioner did not establish any good cause for failing to timely provide the requested employment/income verification. Accordingly, for the above reasons, I conclude that the county agency correctly discontinued the petitioner's FS benefits effective March 1, 2013, due to failure to timely provide required financial verification regarding the father of her children in order to determine her continued FS eligibility and benefits.

#### **CONCLUSIONS OF LAW**

1. The petitioner failed to timely provide required employment and income verification of her boyfriend ([REDACTED] [REDACTED]), and did not establish any good cause for such failure.
2. The county agency correctly discontinued petitioner's FS benefits effective March 1, 2013, due to petitioner's failure to provide to the county agency [REDACTED] [REDACTED]'s employment/income verification needed to determine petitioner's continued FS eligibility and benefits.

**THEREFORE, it is**

**ORDERED**

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 17th day of May, 2013

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\sGary M. Wolkstein  
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 May 17, 2013.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability