



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/148019

PRELIMINARY RECITALS

Pursuant to a petition filed March 15, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Brown County Human Services in regard to FoodShare benefits (FS), a hearing was held on April 22, 2013, at Green Bay, Wisconsin.

The issue for determination is whether the Department erred in its termination of petitioner's FoodShare ("FS") eligibility effective April 1, 2013.

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: Ashley Scofield
Brown County Human Services
Economic Support-2nd Floor
111 N. Jefferson St.
Green Bay, WI 54301

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Brown County. She lives with her boyfriend, [REDACTED]. The two purchase and prepare some of their food together.
2. Petitioner earns a gross income of \$931.10.

3. [REDACTED] works and earns \$2,277 per month.
4. On March 15, 2013, petitioner reported that she was living with her boyfriend. She reported his income consistent with finding of fact #3 above.
5. On March 12, 2013 the Department sent notice to petitioner informing her that her FS would terminate as of April 1, 2013 due to excessive income.
6. Petitioner filed a timely request for hearing.

DISCUSSION

Petitioner's argument at the time of hearing was only that she does not purchase or prepare food with her boyfriend and that he should not be part of her food group. She explains that she is diabetic and requires specific foods. She also stated that it is natural for her to keep food separate. Petitioner explained that she had been living with [REDACTED] for approximately a year and keeping food separate. During that time, [REDACTED] was not part of the food group. A recent move to a new home for [REDACTED] and petitioner necessitated the call to the agency at which time the new information was given and the agency placed [REDACTED] in the food group. Petitioner conceded that she and [REDACTED] purchase and prepare some food together, but she specified that this is not the food that is purchased with the FS funds. But, petitioner explains that she uses the FS funds only to purchase diabetic-specific foods that [REDACTED] does not eat or share in any other way.

At the time of the hearing, the agency did not present the testimony of the agency worker who actually spoke with petitioner about her living and eating arrangements. This worker was also the one who made the decision to add [REDACTED] to the food group.

Thus, the issue is whether a single person group that uses non-FS funds to purchase and prepare food with another person, and keeps separate foods purchased with the person's FS funds, can remain eligible as a one-person food group.

The *FoodShare Handbook* at § 3.3.1.1 states that a food unit is "[o]ne or more persons who live in the same household and purchase and prepare food together for home consumption. This group is tested for eligibility together." It does not matter which food is shared, or that some limited food is not shared. The fact is that the two adults do share food and purchase it together. The fact that petitioner is enrolled in FS and buys some of her food with the card is a financial benefit to him as some portion of his income would likely otherwise go for the purchase of those items. Thus, his income must be part of the eligibility calculation.

CONCLUSIONS OF LAW

The Department did not err in determining that petitioner's boyfriend must be part of the food group.

THEREFORE, it is

ORDERED

That this 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 7th day of May, 2013

\sJohn P. Tedesco
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 7, 2013.

Brown County Human Services
Division of Health Care Access and Accountability