



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/148078

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**PRELIMINARY RECITALS**

Pursuant to a petition filed March 14, 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.

The issue for determination is whether Milwaukee Enrollment Services (MES) correctly discontinued the petitioner's FoodShare (FS) benefits effective April 1, 2013 due to petitioner's incarceration for more than 30 days without meeting all Huber privilege criteria.

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: Mary Hartung, IM advanced worker  
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 # [REDACTED]) is a resident of Milwaukee County.
2. The petitioner has been incarcerated in the [REDACTED] since about February 18, 2013, and was incarcerated for more than 30 days.

3. The petitioner did not timely report to the county agency that he was incarcerated in jail.
4. On or about February 18, 2013, the county agency received a “prisoner alert” indicating the petitioner was incarcerated.
5. Milwaukee Enrollment Services (MES) sent a February 25, 2013 Notice of Decision to the petitioner stating that his FS benefits would discontinue effective April 1, 2013, due to his incarceration in the [REDACTED] he was ineligible for FS benefits.

### **DISCUSSION**

An individual who is incarcerated for more than 30 days is ineligible for FS benefits. FSH § 3.2.1.2.2.

During the April 10, 2013 hearing, petitioner admitted that he has been incarcerated since mid-February, 2013, and thus was ineligible for FS per FSH § 3.2.1.2.2. Petitioner questioned whether he might be eligible for FS because he alleged he cared for his mother when was out of jail on Huber privileges. However, the petitioner admitted that he did not have any children, and was therefore not caring for his own children. The petitioner did not establish that he met all of the Huber criteria for FS eligibility. Accordingly, based upon the above, I conclude that Milwaukee Enrollment Services (MES) correctly discontinued the petitioner’s FoodShare (FS) benefits effective April 1, 2013 due to petitioner’s incarceration for more than 30 days without meeting all Huber privilege criteria.

### **CONCLUSIONS OF LAW**

Milwaukee Enrollment Services (MES) correctly discontinued the petitioner’s FoodShare (FS) benefits effective April 1, 2013 due to petitioner’s incarceration for more than 30 days without meeting all Huber privilege criteria.

**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 6th 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 6, 2013.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability