



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/148499

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**PRELIMINARY RECITALS**

Pursuant to a petition filed April 03, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Walworth County Department of Human Services ["County"] in regard to FoodShare ["FS"] benefits, a Hearing was held via telephone on May 22, 2013.

The issue for determination is whether the County was correct to deny petitioner's February 2013 application for FS.

There appeared at that time via telephone the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

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

By: Sandy Cross, ESS

Walworth County Department of Human Services  
W4051 County Rd NN  
Elkhorn, WI 53121-1006

**ADMINISTRATIVE LAW JUDGE:**

Sean P. Maloney  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Walworth County.
2. In February 2013 petitioner applied with the County for FS.
3. Petitioner lives in a Residential Care Apartment Complex ["RCAC"]

4. Petitioner has a meal plan provided by her RCAC that provides a majority, more than 50%, of her daily meals.
5. The County denied petitioner's February 2013 application for FS.

### DISCUSSION

A person, such as petitioner, who lives in an RCAC is not eligible for FS if they have a meal plan provided by the facility that provides a majority, more than 50%, of their daily meals. *FoodShare Wisconsin Handbook* ["FWH"] 3.2.1.4.2 & 3.2.1.5.1; See also, 7 C.F.R. §§ 271.2(*Group living arrangement*) & 273.11(f) (2011). Petitioner has a meal plan provided by her RCAC that provides a majority, more than 50%, of her daily meals. Therefore, the County was correct to deny petitioner's February 2013 application for FS.

Petitioner argues that she does not eat all of the meals provided by her RCAC and eats a lot of meals in her room. She argues that her doctor has told her to eat more salads and vegetables, that she cannot eat fish or seafood due to allergies, and that much of the food provided by the RCAC is not suitable for her. This may, or may not be, correct. However, as detailed above, petitioner still is not eligible for FS because her RCAC that provides a majority, more than 50%, of her daily meals.

### CONCLUSIONS OF LAW

For the reasons discussed above, the County was correct to deny petitioner's February 2013 application for FS.

**NOW, THEREFORE, it is**

### ORDERED

That the petition 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 23rd day of May, 2013

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\sSean P. Maloney  
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 23, 2013.

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