



FH  
[REDACTED]

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

---

In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/148851

---

**PRELIMINARY RECITALS**

Pursuant to a petition filed April 18, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Outagamie County Department of Human Services in regard to FoodShare benefits (FS), a telephonic hearing was held on June 24, 2013, at Appleton, Wisconsin. At the request of petitioner, a hearing set for May 20, 2012 was rescheduled. At the request of the parties, the record was held open for: a) the petitioner to submit to the county agency **by July 1, 2013** her paystubs for the entire month of May, 2013 and all SSI payments for the past three months; and b) **by July 8, 2013**, the county agency will review the petitioner's submissions and issue to the petitioner a new, updated notice of decision with detailed calculation of her FS eligibility or benefits retroactive to May 1, 2013. for a household of three.

The issue for determination is whether the county agency met its burden of proof to establish that it correctly and accurately discontinued the petitioner's FoodShare (FS) benefits effective May 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: Sandy Hurtado, ESS

Outagamie County Department of Human Services  
401 S. Elm Street  
Appleton, WI 54911-5985

**ADMINISTRATIVE LAW JUDGE:**

Gary M. Wolkstein  
Division of Hearings and Appeals

### FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Outagamie County who resides with her two children.
2. The petitioner received FoodShare (FS) benefits for a household of three.
3. On or about April 11, 2013, the petitioner reported to the county agency that she began new employment at [REDACTED], [REDACTED], [REDACTED].
4. The county agency sent an April 15, 2013 Notice of Decision to the petitioner stating that her FS benefits would be discontinued effective May 1, 2013, due to alleged net household income above the FS net income limit for a household of three. See Exhibit 1.
5. There was insufficient reliable evidence presented during the hearing to determine whether the county agency correctly and accurately discontinued petitioner's FoodShare (FS) benefits effective May 1, 2013 due to excess household income because petitioner's paystubs vary significantly because of her changing work hours.
6. During the June 24, 2013 hearing, the parties stipulated to the following: a) petitioner would submit to ESS Sandy Hurtado at the county agency by **July 1, 2013** verification of all of her paystubs from [REDACTED], [REDACTED], [REDACTED] for the entire month of May, 2013 and all SSI payments for one of her children for the past three months; and b) based upon the new household income verification, the county agency would re-calculate the petitioner's FS eligibility and benefits for a household of three retroactive to May 1, 2013, and **by July 8, 2013** issue to the petitioner an updated notice of decision regarding the petitioner's FS eligibility and benefits for a household of three retroactive to May 1, 2013.

### DISCUSSION

Based upon the above findings of fact, the county agency did not meet its burden of proof to establish that it correctly and accurately calculated the petitioner's FoodShare (FS) eligibility to discontinue petitioner's FS benefits as of May 1, 2013. As a result, the parties need to follow the agreement set forth in Finding of Fact #6 above.

**THEREFORE, it is**

### ORDERED

The matter is remanded to the petitioner and the county agency (**Attention: ESS Sandy Hurtado**) with instructions to perform the following: a) petitioner submit to ESS Sandy Hurtado at the county agency by **July 1, 2013** verification of all of her paystubs from [REDACTED], [REDACTED], [REDACTED] for the entire month of May, 2013 and all SSI payments for one of her children for the past three months; and b) based upon the new household income verification, the county agency re-calculate the petitioner's FS eligibility and benefits for a household of three retroactive to May 1, 2013, and **by July 8, 2013** issue to the petitioner an updated notice of decision regarding the petitioner's FS eligibility and benefits for a household of three retroactive to May 1, 2013. If the petitioner believes that new, July, 2013 FS notice is incorrect she must file a new FS appeal at DHA and include a copy of that new FS notice.

### **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 15th day of July, 2013

---

\sGary M. Wolkstein  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

Wayne J. Wiedenhoef, Acting Administrator  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on July 15, 2013.

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