



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/149600

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**PRELIMINARY RECITALS**

Pursuant to a petition filed May 24, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Eau Claire County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on June 27, 2013, at Eau Claire, Wisconsin.

The issue for determination is whether the petitioner is entitled to deduct chargebacks from her previous employer from her current income if she is no longer self-employed.

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: Kathy Welke

Eau Claire County Department of Human Services  
721 Oxford Avenue  
PO Box 840  
Eau Claire, WI 54702-0840

**ADMINISTRATIVE LAW JUDGE:**

Michael D. O'Brien  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. The petitioner (CARES # [REDACTED]) is a resident of Eau Claire County.
2. The petitioner previously worked as a self-employed sales agent for [REDACTED] [REDACTED] and [REDACTED]. She currently works solely for wages.

3. After the petitioner quit working for ██████ ██████, the company assessed \$743.31 in chargebacks against her. On April 29, 2013, she settled this by agreeing to make four monthly \$50 payments to the company.
4. The petitioner seeks to have the \$50 monthly payments deducted from her income when determining her FoodShare benefits.

### DISCUSSION

The size of a FoodShare allotment depends net income and the size of the household. The petitioner is an ongoing FoodShare recipient who currently works for wages but previously was self-employed selling insurance for ██████ ██████. After she quit ██████ ██████, the company determined that she owed \$743.31 for commissions she had previously received from canceled policies. She and the company settled this dispute by her agreeing to pay \$50 a month for four months to the company. She seeks to have this money deducted from her gross income when determining her benefits. The county agency denied her request because she is no longer self-employed.

Gross household income includes all income from any source unless FoodShare regulations specifically exclude it. 7 CFR § 273.9(b). See 7 CFR § 273.9(c) for exclusions. Net income is determined after subtracting those deductions—and only those deductions—found in 7 CFR § 273.9(d) from gross income. Although the cost of producing self-employment income is excluded from gross income, this does not apply to the petitioner because she is no longer self-employed. See 7 CFR 273.9(c)9. Moreover, FoodShare rules pertaining to self-employment specifically prohibit deducting “[n]et losses from previous periods.” 7 CFR 273.11(b)(2)i. Finally, I note that even if her previous self-employment wages and FoodShare allotments were retroactively adjusted, she could not receive additional FoodShare because she had already received the maximum allotment while she was self-employed.

The petitioner does not challenge the agency’s calculations other than to contend that she should be able to deduct the chargebacks from her current wages. Because nothing in the FoodShare regulations allows this, I must uphold the agency’s decision.

### CONCLUSIONS OF LAW

The petitioner is not entitled to an exclusion or deduction from her income for chargebacks incurred from self-employment she no longer has.

**THEREFORE, it is**

**ORDERED**

The petitioner's 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 27th day of June, 2013

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\sMichael D. O'Brien  
Administrative Law Judge  
Division of Hearings and Appeals



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

Wayne ■ 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 June 27, 2013.

Eau Claire County Department of Human Services  
Division of Health Care Access and Accountability