



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/150310

PRELIMINARY RECITALS

Pursuant to a petition filed June 25, 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 July 24, 2013, at Eau Claire, Wisconsin.

The issue for determination is whether the agency correctly ended the petitioner's FoodShare benefits because she failed to verify the income of the father of her younger child.

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: Cathy 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 lives with her two children in a house whose expenses are paid for entirely by the father of her younger child. His vehicle is registered to that address. He works out of town for the railroad but stays with the petitioner whenever he returns from work.
3. When the petitioner failed to verify the income of the father of her younger child, the agency ended her FoodShare benefits as of July 1, 2013.

DISCUSSION

FoodShare applicants must verify information the agency needs to determine their eligibility. 7 CFR § 273.2(f). Agencies must give applicants the later of 10 days from the request or 30 days from the date of application to provide the information. Agencies must deny benefits to those who fail to verify information 7 CFR § 273.2(c)(5); *FoodShare Wisconsin Handbook*, § 1.2.1.2. A FoodShare household consists of one or more persons who live in the same household and purchase and prepare food together for home consumption. 7 CFR § 273.1(a)(3); *FoodShare Wisconsin Handbook* § 3.3.1. Anyone under 22 years old who lives “with his or her natural or adoptive parent(s) or step-parent(s)” is considered part of that household whether or not the entire household eats and prepares food together. 7 CFR § 273.1(b)(1)(ii). Because a parent who lives with a child is part of that child’s household, if both parents live with a child they have in common, they are considered part of the same FoodShare household as each other. A person temporarily absent from a household remains part of that household. *FoodShare Wisconsin Handbook*, § 3.2.1.2

The county agency initially found the petitioner eligible for BadgerCare Plus and FoodShare after determining that the father of her younger child did not live with her. He works out of town for the railroad. However, he pays for all of the bills at her house, lists it as his permanent address for court documents and his vehicle registration, and returns and stays there whenever he is not working. He does not pay child support because the child support agency has determined that he lives with the petitioner. Based upon this, the county economic support unit requested that the petitioner verify his income. When she did not do so within 10 days, it ended her benefits as of July 1, 2013. She now agrees that the agency acted correctly in her FoodShare matter and will provide verification of this income.

CONCLUSIONS OF LAW

1. The father of the petitioner’s younger child is part of the petitioner’s household.
2. The county agency correctly ended the petitioner’s FoodShare benefits because she failed to verify the income of the father of her younger child.

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 29th day of July, 2013

\sMichael D. O'Brien
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 July 29, 2013.

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