



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/150388

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**PRELIMINARY RECITALS**

Pursuant to a petition filed July 01, 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 hearing was held on July 30, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether Petitioner's application for FoodShare benefits was correctly denied because of income in excess of FoodShare net income limits.

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: L. Yang

Milwaukee Enrollment Services  
1220 W Vliet St  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

David D. Fleming  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner filed an application for FoodShare benefits on or about July 1, 2013. The application was denied because of income in excess of net income limits.
3. Petitioner's household has the following gross income: Petitioner's SSDI in the amount of \$1338.90 (before a deduction for Medicaid Part B premiums), a child-support arrearage payment

of \$49.61, current child-support of \$380.74 and Social Security surviving child income of \$335.00 for each of two children. The agency found income to total \$2439.25.

4. Petitioner was credited with following expenses a standard deduction of \$149.00; an excess medical expense deduction of \$69.90 (Petitioner's part B premium of \$104.90 minus \$35) and a shelter deduction for \$428.83 (based upon shelter expense \$1097.00 plus a utility allowance of \$442.00).
5. Petitioner's household size is three.

### **DISCUSSION**

To receive FoodShare benefits a household must have income below gross and net income limits though the gross income test does not apply where a household has an elderly blind or disabled member. *7 Code of Federal Regulations (CFR), §273.9(b); FoodShare Wisconsin Handbook (FSH), § 1.1.4.* The agency must budget all income of the FS household, including all earned and unearned income. *7 CFR § 273.9(b); FoodShare Wisconsin Handbook (FSH), § 4.3.1.* Gross Social Security benefits are included as income. *FSH, §4.3.4.2, #5.* The allotment calculation is based on prospectively budgeted monthly income using estimated amounts. *FSH, §4.1.1.*

Once a household passes the gross income test the following deductions are applied (*FSH, at § 4.6*):

- (1) a standard deduction - which currently is \$149 per month for a household of 1 person, *7 CFR § 273.9(d)(1)*;
- (2) an earned income deduction - which equals 20% of the household's total earned income, *7 CFR § 273.9(d)(2)*;
- (3) certain medical expenses – for medical expenses exceeding \$35 in a month for an elderly or disabled person, *7 CFR § 273.9(d)(3)*;
- (4) dependent care deduction for child care expenses, *7 CFR § 273.9(d)(4)*; and
- (5) shelter and utility expenses deduction - the deduction is equal to the excess expense above 50% of net income remaining after other deductions. *7 CFR § 273.9(d)(5).* There is a cap of \$459.00 on the shelter cost deduction unless a household has an elderly [60 or older], blind or disabled member. *FSH, §§ 4.6.7.1 and 8.1.3.*

Petitioner questions the inclusion of the child-support arrearage as part of her household income. I have, however, reviewed the unearned income inclusions and exclusions found at §§4.3.4.2 and 4.3.4.3 of the FSH and find no basis for excluding the arrearage. I have also reviewed the remainder of the calculation and did not find an error in the agency's conclusion that Petitioner's net household income is over the FoodShare net income limit. *See FSH, §8.1.2.*

### **CONCLUSIONS OF LAW**

That the agency correctly denied Petitioner's application for FoodShare benefits because of income in excess of program net income limits.

**THEREFORE, it is**

**ORDERED**

That this 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 Milwaukee,  
Wisconsin, this 26th day of August, 2013

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\sDavid D. Fleming  
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 August 26, 2013.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability