



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/151092

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**PRELIMINARY RECITALS**

Pursuant to a petition filed July 30, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the La Crosse County Department of Human Services in regard to FoodShare benefits (FS), a telephone hearing was held on September 09, 2013, at La Crosse, Wisconsin.

The issue for determination is whether the respondent properly determined petitioner's FS allotment.

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: Tom Miller

La Crosse County Department of Human Services  
300 N. 4th Street  
PO Box 4002  
La Crosse, WI 54601

**ADMINISTRATIVE LAW JUDGE:**

Peter McCombs  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of La Crosse County, who has had FS benefits since at least 2010.
2. In March, 2013, J.R. contacted the respondent and reported that she and the petitioner had married.

3. On June 4, 2013, respondent sent written notice indicating that petitioner's household FS benefits would be reduced to \$16.00 as of July 1, 2013.
4. Petitioner filed a timely appeal on July 30, 2013.

### DISCUSSION

Who must be considered a member of a FS household is set forth in federal law that can be found in 7 CFR §273.1(a) and (b). Spouses living together are required to be in the same FS household. 7 C.F.R. § 273.1(b)(1)(i).

Earned income is counted for the purpose of determining FS eligibility and allotments levels. FS Wisconsin Handbook, §4.3.2. Unearned income is also counted. Id., §4.3.4.1. A standard deduction of \$149 is applied to all household income for a household of 1 to 3 people. Id., §4.6.2. The earned income deduction is 20%. Id., §4.6.3. These two items are deducted from gross income to arrive at adjusted household income. Shelter and utility expenses in excess of 50% of that adjusted household income is deducted. Id., §4.6.7. Also see 7 CFR 273.10 generally regarding budgeting calculations. Finally, the allotment applicable to a household is then reduced by 30% of the household's net income. 7 CFR 273.10(e)(2)(ii)(A).

The respondent testified that petitioner's FS allotment is based upon petitioner's Social Security income of \$722 and J.R.'s Social Security Income of \$765. Following application of allowable deductions, the respondent determined that petitioner is categorically eligible for FS, and his household receives the minimum FS amount.

The petitioner questions the reduction since his income has not changed. The only thing that has changed is the fact that he is now married. As a result, his *household's* income has changed. Petitioner conceded at hearing that he understood the policy requirements at play here, but complained that his bills have increased, while his income has stayed the same and his FS benefits have decreased.

I have reviewed the respondent's calculations, and found no error. The petitioner has, in effect, argued that the program standard is unfair and that the administrative law judge should grant him relief from the program requirements. I empathize with the petitioner's situation. However, it is the long-standing policy of the Division of Hearings & Appeals, Work & Family Services Unit, that the Department's assigned administrative law judges do not possess equitable powers. See, *Wisconsin Socialist Workers 1976 Campaign Committee v. McCann*, 433 F.Supp. 540, 545 (E.D. Wis.1977). This office must limit its review to the law as set forth in statutes, federal regulations, and administrative code provisions. Under law, he is not eligible for more than the \$16 allotment; no exception applies, and I am without any equitable powers to direct any remedy beyond the remedies available under law.

### CONCLUSIONS OF LAW

1. The petitioner's wife and the petitioner were correctly included in the same FS household.
2. The respondent correctly budgeted the petitioner's household income in determining the appropriate FS allotment.

**THEREFORE, it is**

**ORDERED**

That 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 September, 2013

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\sPeter McCombs  
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 September 27, 2013.

La Crosse County Department of Human Services  
Division of Health Care Access and Accountability