



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/151212

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**PRELIMINARY RECITALS**

Pursuant to a petition filed August 07, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Dodge County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on September 09, 2013, at Juneau, Wisconsin.

The issue for determination is whether the Department erred in terminating petitioner from the FoodShare program.

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: Katie Sanchez

Dodge County Department of Human Services  
143 E. Center Street  
Juneau, WI 53039-1371

**ADMINISTRATIVE LAW JUDGE:**

John P. Tedesco  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Dodge County.
2. Petitioner was enrolled in the FS program with a group size of 3.

- On July 20, petitioner provided the agency with updated verification of employment with EK Machine Co. indicating a 16 dollar per hour rate and a 40 hour work week totaling earned income of \$2,752 per month.
- 4. At that time, petitioner was receiving \$159 per week of unemployment unearned income. This is correctly calculated as \$683.70 per month.
- 5. The agency budgeted a household income from these two sources of \$3,435.70.
- 6. Petitioner received FS for July.
- 7. The agency terminated enrollment effective August 1, 2013
- 8. Petitioner appealed.

### DISCUSSION

In determining the amount of FS to be issued each month, the county must budget all of the recipient's nonexempt income. 7 C.F.R. §273.9(b). From that income, certain deductions are allowed. The deductions include a standard deduction, which was, at the relevant time of the agency action, \$142 per month for a three person household. 7 C.F.R. §273.9(d)(1); FoodShare Wisconsin Handbook, Appendix 4.6.2. Another deduction is the earned income deduction, which equals 20% of the household's total earned income. 7 C.F.R. §273.9(d)(2); FoodShare Wisconsin Handbook, App. 4.6.3. A third possible deduction is for medical expenses exceeding \$35 in a month for elderly or disabled persons. 7 C.F.R. §273.9(d)(3); FoodShare Wisconsin Handbook, App. 4.6.4. A fourth deduction is for child/dependent care. 7 C.F.R. §273.9(d)(4); FoodShare Wisconsin Handbook, App. 4.6.6. The final deduction is for shelter expenses; the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 C.F.R. §273.9(d)(5); FoodShare Wisconsin Handbook, App. 4.6.7.

Petitioner did not dispute the income set forth in the findings of fact. The gross income limit for a household of four in June 2013 was \$3,182. See *FS Handbook* §§ 4.2.1.1, 8.1.1.1. Petitioner's income exceeded the gross income limit.

Petitioner argued that she now receives less in unemployment income. She stated that her unemployment was reduced to \$141 per month. Assuming that this is correct, this would bring the household income down \$77.40 which would still result in ineligibility. That said, petitioner conceded that in July the payment was \$159 and that is the fact relevant to the agency determination. Petitioner may reapply for FS at any time and have a new eligibility determination.

### CONCLUSIONS OF LAW

The Department did not err in terminating petitioner's FS effective August 1, 2013.

**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 Madison,  
Wisconsin, this 26th day of September, 2013

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\sJohn P. Tedesco  
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 September 26, 2013.

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