



STATE OF WISCONSIN  
Division of Hearings and Appeals

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/151931

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**PRELIMINARY RECITALS**

Pursuant to a petition filed September 05, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Brown County Human Services in regard to FoodShare (FS) benefits, a hearing was held on October 21, 2013, at Green Bay, Wisconsin.

The issue for determination is whether the respondent correctly denied petitioner's request for FS benefits.

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: Cheryl Streich

Brown County Human Services  
Economic Support-2nd Floor  
111 N. Jefferson St.  
Green Bay, WI 54301

**ADMINISTRATIVE LAW JUDGE:**

Peter McCombs (telephonically)  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Brown County.
2. Petitioner resides with [REDACTED] and Ms. [REDACTED]'s son.
3. On July 16, 2013, petitioner applied for FS benefits for herself.

4. By notice dated July 19, 2013, the respondent denied petitioner's application due to household income in excess of FS program limits. Respondent included Ms. [REDACTED] and her son as part of petitioner's FS household, as petitioner shares meals with Ms. [REDACTED] and her son.

### DISCUSSION

The FS handbook establishes the following guidelines to determine a Food Unit for purposes of FS benefits is as follows:

Food unit: 1 or more persons who live in the same household and purchase and prepare food together for home consumption. This group is tested for eligibility together. There are some exceptions for boarders, foster persons, and certain elderly and disabled individuals.

Examples of a food unit include:

1. A person living alone.
2. A group of persons living together who purchase and prepare meals together for home consumption.
3. A person (or group of persons) living with others, but who usually purchases and prepares food for home consumption separately from the others.

Purchase and prepare: People living together who:

1. Share in the cost of purchasing food.
2. Share in the preparation of food.
3. Eat together.

Each person does not have to shop, provide money, prepare food, and eat together. Any of those activities is sufficient to include a member in purchasing and preparing food with the group.

*FoodShare Wisconsin Handbook*, §3.3.1, 7 CFR § 273.1(a).

In a Fair Hearing concerning the propriety of a discontinuance or reduction of benefits, such as this, the county agency has the burden of proof to establish that the action taken by the county was proper. The petitioner must then rebut the agency's case and establish facts sufficient to overcome the evidence of correct action by the agency in determining the discontinuance action was required.

In this case, the county agency denied petitioner's application for FS benefits because she reported sharing meals with Ms. [REDACTED] and her son. Petitioner noted in her request for hearing:

I'm living with my boyfriend's family as a guest in their home and I know their food expenses have increased since my arrival. I do not wish to be a burden to them. ... I moved to Wisconsin and my benefits in Oregon were cancelled, my boyfriend's mother [Ms. [REDACTED]] has been providing me with food as much as she can.

Exhibit 1. The petitioner has not disputed the income figures attributed to the household, and as such, the issue before me is whether Ms. [REDACTED] and her son should be included in petitioner's FS household. Petitioner has admitted that she shares in food purchased by Ms. [REDACTED]. Ms. [REDACTED] testified that petitioner has access to the food that she buys, but that she cannot afford to continue buying food for petitioner.

Based upon the above, I must conclude that the county agency correctly denied petitioner's FS benefits based upon the fact that petitioner and Ms. [REDACTED] do share food at this point. Petitioner testified that she intends to move out of Ms. [REDACTED]'s residence in the Spring. However, at this point in time, and based upon the living arrangements that she and Ms. [REDACTED] have confirmed, I find no error in the respondent's denial determination.

Nothing in this decision should preclude the petitioner from applying for benefits anew if her living arrangements have changed.

### **CONCLUSIONS OF LAW**

The county agency correctly denied petitioner's application for FS benefits.

**NOW, THEREFORE, it is ORDERED**

That the matter herein be and is hereby 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 31st day of October, 2013

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\sPeter McCombs  
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 October 31, 2013.

Brown County Human Services  
Division of Health Care Access and Accountability