



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/152510

PRELIMINARY RECITALS

Pursuant to a petition filed September 30, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Polk County Department of Social Services in regard to FoodShare benefits (FS), a hearing was held on December 18, 2013, at Balsam Lake, Wisconsin. A hearing scheduled for November 18, 2013, was rescheduled at the petitioner's request.

The issue for determination is whether the county agency properly excluded the petitioner's child from his household if she resides with him less than half of the time.

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, Room 651
Madison, Wisconsin 53703

By: Tom Miller

Polk County Department of Social Services
100 Polk County Plaza, Suite 50
Balsam Lake, WI 54810

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Polk County.
2. The petitioner child has lived with her grandmother over half of the time.

DISCUSSION

The size of a FoodShare allotment depends upon net income and the size of the household. One cannot be considered part of more than one household in the same month. 7 CFR § 273.3(a). The petitioner filed an appeal of the agency's decision not to include his child in his household because the child lives with her maternal grandmother over half of the time. At the hearing, the petitioner did not dispute that he has the child less than half of the time and indicated that he "could care less about FoodShare." (His primary concern is his eligibility for BadgerCare Plus, which is determined in a different case.) Based upon this, I find that the child was not in the petitioner's household and thus was properly not considered part of that household.

CONCLUSIONS OF LAW

The petitioner is not entitled to include his child in his FoodShare household because the child does not live with him over half of the time.

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, Room 651, 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 December, 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 December 27, 2013.

Polk County Department of Social Services
Division of Health Care Access and Accountability