



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/153092

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**PRELIMINARY RECITALS**

Pursuant to a petition filed October 23, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Pierce County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on December 18, 2013, at Ellsworth, Wisconsin.

The issue for determination is whether the county agency correctly determined the petitioner's FoodShare eligibility.

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: Carol Hilsgen

Pierce County Department of Human Services  
412 West Kinne Street  
PO Box 670  
Ellsworth, WI 54011

**ADMINISTRATIVE LAW JUDGE:**

Michael D. O'Brien  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. The petitioner (CARES # [REDACTED]) is a resident of Pierce County.
2. The county agency notified the petitioner that her FoodShare benefits would end on November 1, 2013, because her family income exceeded the program's limit.

3. There are four persons in the petitioner's household.
4. The petitioner's total household income is \$2,397.99, all of which is unearned.
5. The petitioner pays \$780 per month in rent.

### **DISCUSSION**

FoodShare benefits and eligibility depend upon income and the size of the household. Households whose gross income exceeds 200% of the federal poverty level are not considered categorically eligible for benefits. *FoodShare Wisconsin Handbook*, § 4.2.1.1. This means that it cannot receive benefits regardless of what its net income is. For a four-person household, the size of the petitioner's, 200% of the federal poverty level is \$3,926 per month. *FoodShare Wisconsin Handbook*, § 8.1.1. Gross household income includes all income from any source unless FoodShare regulations specifically exclude it. 7 CFR § 273.9(b). The petitioner's household income is \$2,397.99, so it is categorically eligible for benefits. Because it is categorically eligible, the next step is to determine whether she meets the program's net income limit.

Net income is determined after subtracting those deductions—and only those deductions—found in 7 CFR § 273.9(d) from gross income. Her household is entitled to the \$163 standard deduction allowed for four-person households. *FoodShare Wisconsin Handbook*, § 4.6.2 and 8.1.3; 7 CFR § 273.9(d)(1). All of the petitioner's household income is unearned because it comes from state and federal SSI payments. This means that it is not entitled to an earned income deduction equal to 20% of any earned income. See 7 CFR § 273.9(d)(2). The only other deduction her household is entitled to is the shelter deduction, which equals the amount that housing costs, including a standard utility allowance currently set at \$450, exceed 50% of the net income remaining after all other deductions are subtracted from gross income. *FoodShare Wisconsin Handbook*. § 4.6.7; 7 C.F.R. § 273.9(d)(6)(ii); *FoodShare Wisconsin Handbook*, § 8.1.3. The petitioner's housing costs consist of her \$780 rent plus the \$450 standard utility deduction, or \$1,230. Because there is a standard utility allowance, his actual utility costs are not considered. Deducting the \$163 standard allowance from her \$2,397.99 gross income, leaves her with \$2,234.99. Half of this is \$1,117.44. Her \$1,230 in shelter costs exceed this amount by \$119.56, which is her shelter deduction. Subtracting the two deductions she is allowed, the \$119.56 shelter deduction and the \$163 standard deduction, from her \$2,397.99 gross income, leaves him with 2,115.43 in countable net income. A four-person household with this much net income is not entitled to any FoodShare benefits. *FoodShare Wisconsin Handbook*, § 8.1.2.

In making this decision, I am aware that the petitioner considers it unfair that someone in her circumstances receives no FoodShare. While I am aware of how difficult it is for four person to live on the income received by the petitioner's household, I must base my decision on the law as it is written.

### **CONCLUSIONS OF LAW**

The county agency correctly determined that the petitioner's income exceeds the FoodShare program's limit.

**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 19th day of December, 2013

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\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 19, 2013.

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