



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/153578

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**PRELIMINARY RECITALS**

Pursuant to a petition filed November 20, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Kenosha County Human Service Department in regard to FoodShare benefits (FS), a hearing was held on December 10, 2013, at Kenosha, Wisconsin.

The issue for determination is whether the agency correctly removed Petitioner's son from her case and reduced her FoodShare benefit for November 2013.

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: Karen Mayer, Fair Hearing Coordinator  
Kenosha County Human Service Department  
8600 Sheridan Road  
Kenosha, WI 53143

**ADMINISTRATIVE LAW JUDGE:**

Mayumi M. Ishii  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Kenosha County.
2. On September 30, 2103. the Petitioner contacted the agency and indicated that her son would be moving out of her home on October 9, 2013. (Exhibit 3, pg. 2; Testimony of Petitioner)

3. On October 4, 2013, the Petitioner contacted the agency and indicated that her son was out of her home. (Exhibit 3, pg. 1; Testimony of Petitioner)
4. On October 7, 2013, the agency sent Petitioner a notice that as of November 1, 2013, her FoodShare benefit would be going down from \$367 per month to \$189 per month, because someone moved out of her home. (Exhibit 4)
5. On October 21, 2013, Petitioner contacted the agency to do a review and again indicated that she lived alone. (Exhibit 3, pg. 1; Testimony of Petitioner)
6. On November 11, 2013, the Petitioner completed a Shared Living Arrangements form, indicating that her son was in her home. (Exhibit 5)
7. On November 13, 2013, the agency sent Petitioner a notice indicating that as of December 1, 2013, her FoodShare benefit would be increasing from \$189 per month to \$347 per month, because someone moved into her home.
8. The Petitioner filed a request for fair hearing that was received by the Division of Hearings and Appeals on November 20, 2013. (Exhibit 1)
9. Petitioner was and is over age 60. (Testimony of Petitioner)
10. Petitioner pays rent in the amount of \$650 per month and is responsible for paying utilities. (Testimony of Petitioner)
11. In November 2013, Petitioner paid \$104.90 for a Medicare premium. (Testimony of Petitioner)
12. Petitioner's sole source of income is from Social Security Retirement, in the amount of \$752.00 per month. (Testimony of Petitioner)

### **DISCUSSION**

Petitioner did not dispute the fact that she reported her son out of her home, nor did she dispute the agency's calculation of her income. However, contends that the agency applied the wrong assistance group size, because her son never actually left her home. Petitioner's claim is not credible, given that she reported, on two separate occasions in October 2013, that she was living alone.

FoodShare Wisconsin Handbook (FSH) Sec. 6.1.1.1 requires individuals in Elderly, Blind or Disabled (EBD) food units, with no earned income to report changes in household composition within 10 days that the change becomes known to the household. Once the change is reported, the agency is required to act upon the reported change within 10 days. FSH 6.1.3.1 *Processing Reported Changes*.

On September 30, 2013 and October 4, 2013, the Petitioner properly reported that her son moved or was moving out of her home. The agency was then obligated to act upon this change within ten days and properly did so on October 7, 2013, by re-determining Petitioner's benefits and issuing a notice of adverse action, advising Petitioner that her benefits would be reduced for November 2013.

### **CONCLUSIONS OF LAW**

The agency correctly removed Petitioner's son from her case and reduced her FoodShare benefits for November 2013.

**THEREFORE, it is**

**ORDERED**

That the petition be 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 Milwaukee,  
Wisconsin, this 11th day of December, 2013.

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\sMayumi M. Ishii  
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 11, 2013.

Kenosha County Human Service Department  
Division of Health Care Access and Accountability