



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION ON REHEARING

FOO/153632

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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 Crawford County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on January 21, 2014, by telephone. A previous hearing date was missed by the petitioner, resulting in dismissal of her appeal. She timely requested rehearing, which was granted and resulted in the hearing of January 21, 2014.

The issue for determination is whether the Department correctly discontinued the petitioner's FS during her incarceration.

There appeared at that time 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: Ms. Kirby Crubel, ES Advisor  
Crawford County Department of Human Services  
225 N Beaumont Rd., Suite 326  
Prairie Du Chien, WI 53821

**ADMINISTRATIVE LAW JUDGE:**

Nancy J. Gagnon  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Crawford County.

2. Prior to December 2013, the petitioner had an open FS case for herself and her son. On November 4, 2013, the Department issued written notice to the petitioner advising that her FS case would close effective December 1, 2013. The Department's basis for discontinuance was that the petitioner was incarcerated. The petitioner appealed.
3. The petitioner's incarceration began on October 16, 2013. It is expected to end next week.
4. During the petitioner's incarceration, her son is cared for by the petitioner's mother. The mother applied for FS for the son (household of two, including the mother), with the result that they receive \$16 in FS monthly.

### **DISCUSSION**

A person who is incarcerated or institutionalized for 30 days or more is not eligible to receive FS. *Foodshare Wisconsin Handbook*, §§ 3.2.1.2.2 & 3.2.1.4, at <http://www.emhandbooks.wisconsin.gov/fsh/fsh.htm>. ; 7 C.F.R. § 273.1(b)(7). The theory behind the policy is that the person's nutritional needs are being met by the jail, so FS is a duplicative benefit. There is no dispute as to the duration or fact of the petitioner's incarceration. Thus, the closure was correct.

The petitioner may reapply for FS benefits as soon as she is released from jail.

### **CONCLUSIONS OF LAW**

1. The Department correctly discontinued FS benefits to the petitioner.

**THEREFORE, it is**

**ORDERED**

That the petition is dismissed.

### **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 22nd day of January, 2014

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\sNancy J. Gagnon  
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 January 22, 2014.

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