



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/154338

PRELIMINARY RECITALS

Pursuant to a petition filed December 19, 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 telephonic hearing was held on January 28, 2014, at Kenosha, Wisconsin.

The issue for determination is whether the agency correctly processed petitioner's application for FS.

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

Kenosha County Human Service Department
8600 Sheridan Road
Kenosha, WI 53143

ADMINISTRATIVE LAW JUDGE:

Kelly Cochrane
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Kenosha County and lives with her daughter.
2. On December 8, 2013 petitioner applied for FS. On the application petitioner stated "yes" to the question about whether she and her daughter bought food and ate meals together.
3. On December 18, 2013 the agency issued a notice of decision to petitioner stating that her FS application was denied because her household income was over the FS limit.

DISCUSSION

The FoodShare application process includes:

1. Submitting an application by:
 - a. submitting a signed RFA following the client registration process,
 - b. submitting an FS request with at least the minimum information required (name, address, and signature) using the FS registration or application forms (F-16019A or F-16019B),
 - c. completing an ACCESS application with an electronic signature, **or**
 - d. completing a request over the phone using a telephonic signature (2.1.4.4.1).
2. Completing a face to face or telephone interview. (2.1.3.5),
3. Verifying certain information (1.2.1), and
4. Confirming the FS eligibility determination in CARES (2.1.7).

See *FS Handbook* §2.1.1.2, available online at <http://www.emhandbooks.wisconsin.gov/fsh/fsh.htm>; see also 7 CFR §273.2(d).

In determining whether or not an applicant is eligible for FS, the agency is required to look at certain nonfinancial and financial information. See *FS Handbook* §1.1.4. This particular case started with looking at petitioner's nonfinancial eligibility. To determine who is nonfinancially eligible for FS, the agency must start with all household members. See *FS Handbook* §3.3.1.1. For FS purposes, households consist of all persons living in or temporarily absent from the same residence. *Id.* The agency must also determine the Food Unit. A Food Unit is one or more persons who live in the same household and purchase and prepare food together for home consumption. This group is then tested for eligibility together. There are some exceptions for boarders, foster persons, and certain elderly and disabled individuals. *Id.* 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.

Id.

In determining if persons purchase and prepare food together, the agency will consider people living together who:

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

Id. Each person does not have to shop, provide money, prepare food, and eat together. Any of those activities would be sufficient to include a member in purchasing and preparing food with the group. *Id.* The "FS group" is then formed by persons who are in the same food unit and pass all the individual non-financial criteria. *Id.*

Because the petitioner indicated on her application that she and her daughter live in the same household and purchase and prepare food together for home consumption, the group (petitioner and her daughter) was then tested for eligibility together. *Id.* at §4.1.1 and 4.3.1. The agency then included the daughter's income with the petitioner's and found their income to be over the limit to receive FS.

In applying the regulations and policies to this case, it was appropriate to prospectively budget the petitioner's and daughter's household income using the best information available, which is what the agency did here. At hearing petitioner did not contest the calculation of the income, but rather indicated that she and her daughter did not really purchase and prepare meals together. That information was not available to the agency when it made its determination for benefits. Rather, it based its determination on the information provided by the petitioner herself. Thus, I will not disturb the agency's action regarding the denial. Petitioner will need to file a new application now that her case was closed per the denial, and she will need to provide any new or different information to the agency.

CONCLUSIONS OF LAW

The agency correctly processed petitioner's application for FS using the best information available.

THEREFORE, it is

ORDERED

The petition for review 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 Milwaukee,
Wisconsin, this 29th day of January, 2014

\sKelly Cochrane
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 29, 2014.

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