



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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/154924

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**PRELIMINARY RECITALS**

Pursuant to a petition filed January 21, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a telephonic hearing was held on February 12, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether Milwaukee Enrollment Services accurately and correctly calculated the petitioner’s FoodShare (FS) household composition and benefits retroactive to August 1, 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: Katherine May, HSPC senior  
Milwaukee Enrollment Services  
1220 W Vliet St, Room 106  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Gary M. Wolkstein  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County who receives FoodShare (FS) benefits.
2. The petitioner’s ex-wife is [REDACTED].

3. The petitioner and his ex-wife have three children in common.
4. ██████████ ██████████ received FS benefits for herself and their three children as of about January 8, 2011.
5. On or about August 15, 2013, petitioner submitted a change report to Milwaukee Enrollment Services (MES) requesting that his three children be placed on his FS case and removed from his ex-wife's FS case due to primary placement of the children with him.
6. MES conducted an investigation during August, 2013, and initially concluded that the three children should be removed from ██████████ ██████████' FS case and added to the petitioner's FS case.
7. Petitioner's ex-wife contested that decision, and MES reversed its position and returned the three children to ██████████ ██████████' FS case because she had applied first (prior to petitioner) for FS benefits.
8. MES incorrectly filed a FS overpayment against petitioner for the FS benefits to which he was allegedly not eligible for his three children to be added to his FS case.
9. The petitioner filed the instant FS appeal regarding the placement of his three children on his FS case and the calculation of his FS benefits as of August, 2013.
10. In his November 27, 2013 Court Order, Milwaukee County Judge ██████████ concluded that petitioner had greater than 50% placement of the three children in Case # ██████████.
11. The MES representative agreed that petitioner should be eligible for supplemental FS benefits due to Finding of Fact #10 above.

### DISCUSSION

During the February 12, 2014 hearing, as noted in Finding of Facts #9 - #11 above, MES representative Katherine May, agreed that after a thorough investigation of the evidence the three children should be included in the petitioner's FS household based upon the November 27, 2013 Court Order. The petitioner submitted his change of placement to MES on or about August 15, 2013. The MES representative indicated that petitioner's ex-wife did not respond to any request for verification of the living arrangement of her three children, and there had been a loss of contact with MES. Accordingly, based upon the above, I conclude that MES should remove the three children from petitioner's ex-wife's FS case as of August 1, 2013, and add those three children to the petitioner's FS case with supplemental FS benefits retroactive to August 1, 2013.

### CONCLUSIONS OF LAW

1. Milwaukee Enrollment Services (MES) correctly re-determined after investigation that the petitioner's three children should be returned to the petitioner's FoodShare (FS) based upon the November 27, 2013 Court Order.
2. The petitioner should receive supplemental FS benefits for his three children as of August 1, 2013 based upon the Court Order and his August, 2013 request for a change of placement of his three children.

**THEREFORE, it is**

### ORDERED

That the matter is remanded to Milwaukee Enrollment Services with instructions to: a) remove the three children from ██████████ ██████████' FS case as of August 1, 2013; b) add the petitioner's three children to his FS case as of August 1, 2013; and c) MES should issue to the petitioner supplemental FS benefits for his three children retroactive to August 1, 2013, within 10 days of the date of this decision.

## **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 11th day of March, 2014

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\sGary M. Wolkstein  
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 March 11, 2014.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability