



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/155056

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**PRELIMINARY RECITALS**

Pursuant to a petition filed January 23, 2014, under Wis. Admin. Code, §HA 3.03(1), to review a decision by the Manitowoc County Dept. of Human Services in regard to FoodShare benefits (FS), a hearing was held on February 20, 2014, by telephone.

The issue for determination is whether the county correctly closed petitioner's FS when he was married.

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703

By: Jody Scott

Manitowoc County Dept. of Human Services  
3733 Dewey Street  
Manitowoc, WI 54221-1177

**ADMINISTRATIVE LAW JUDGE:**

Brian C. Schneider  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Manitowoc County.
2. Petitioner formerly received FS for himself and his daughter. In December, 2013 he contacted the agency to report his marriage to M.S.
3. Because M.S. had an open FS case that included her children-in-common with petitioner, the county closed petitioner's FS and added him and his daughter to M.S.'s case. Petitioner was informed about the change by a notice dated December 18, 2013, effective January 1, 2014.

4. Petitioner appealed on January 23, 2014.

### DISCUSSION

The federal FS regulations define FS household composition as follows:

(a) *General household definition.* A household is composed of one of the following individuals or groups of individuals, unless otherwise specified in paragraph (b) of this section:

1. An individual living alone;
2. An individual living with others, but customarily purchasing food and preparing meals for home consumption separate and apart from others; or
3. A group of individuals who live together and customarily purchase food and prepare meals together for home consumption.

7 C.F.R. §273.1(a). FS rules provide further as follows:

The following individuals who live with others must be considered as customarily purchasing food and preparing meals with the others, even if they do not do so, and thus must be included in the same household, unless otherwise specified.

- (i) Spouses;
- (ii) A person under 22 years of age who is living with his or her natural or adoptive parent(s) or step-parent(s); and
- (iii) A child (other than a foster child) under 18 years of age who lives with and is under the parental control of a household member other than his or her parent.

7 C.F.R. §273.1(b)(1); see also FS Handbook, Appendix 3.3.1.2.

Petitioner filed this appeal and testified that he and M.S. do not actually live together. He testified that they got married only so that he would no longer have to pay child support to M.S. for their children in common. While one would think that if they are that close, M.S. could simply reimburse petitioner for child support paid rather than go through the rather drastic and final act of marriage simply to avoid the support order, I suspect, like the county workers, that more is going on here than meets the eye.

Petitioner testified that he actually lives in a home on [REDACTED] owned by his mother's boyfriend. He provided copies of rent receipts showing that he pays \$200 per month for rental of an entire home. Of course, the close relationship with the alleged landlord impacts on the credibility of the claim, as does the incredibly low rent amount. I cannot accept those rent receipts as proof that petitioner lives on [REDACTED].

Petitioner also testified that he reported the [REDACTED] address in recent civil litigation, so I looked it up on Wisconsin Circuit Court Access. Petitioner's address in the civil case is listed as M.S.'s address on [REDACTED].

I conclude that the county acted correctly in adding petitioner to M.S.'s case. I simply do not believe that petitioner married M.S. with no intent to live together, and if so and the marriage was for more devious reasons, then they can reap the disadvantages as well as the benefits of their decision. If petitioner and M.S. can provide convincing verification to the county that they actually live apart despite their recent marriage, the county can always review the case again.

**CONCLUSIONS OF LAW**

The county correctly added petitioner to his new wife's FS case after he reported their marriage.

**THEREFORE, it is ORDERED**

That the petition for review herein be and the same is hereby 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 25th day of February, 2014

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\sBrian C. Schneider  
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 February 25, 2014.

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