



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
P O Box 14815

DECISION

FOO/155161

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**PRELIMINARY RECITALS**

Pursuant to a petition filed January 31, 2014, under Wis. Admin. Code, §HA 3.03(1), to review a decision by Milwaukee Enrollment Services to discontinue FoodShare benefits (FS), a hearing was held on March 5, 2014, by telephone.

The issue for determination is whether the agency correctly closed FS when it discovered that petitioner was incarcerated.

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]  
[REDACTED]  
[REDACTED]

Respondent:

Department of Health Services  
1 West Wilson Street, Room 651  
Madison, Wisconsin 53703  
By: Pang Thao-Xiong  
Milwaukee Enrollment Services  
1220 W. Vliet St.  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Brian C. Schneider  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner received FS as a one-person household. In December, 2013 the agency received information that petitioner was incarcerated. By a notice dated December 23, 2013, the agency informed petitioner that FS would close February 1, 2014 because she was incarcerated.

3. Petitioner was incarcerated in the county Huber facility, meaning that she was released during days to attend to medical treatment and other terms of her release. She was not released to care for a child.
4. Petitioner was released on February 19, 2014. She has reapplied for FS.

### **DISCUSSION**

Under FS rules a person living residing in an institution, including a jail for more than 30 days, is ineligible for FS. 7 C.F.R. §273.1(a)(7)(vi); FS Handbook, Appendix 3.2.1.2.2. A Huber Law prisoner can be eligible for FS if she is released regularly to care for a family member.

Although petitioner was in the Huber facility she nevertheless was not eligible for FS because she was not released to care for a family member. The discontinuance of FS was correct. Petitioner's reapplication will be processed in the usual manner.

### **CONCLUSIONS OF LAW**

The agency correctly closed FS because petitioner was incarcerated for more than 30 days.

**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 7th day of March, 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 March 7, 2014.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability