



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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/155708

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**PRELIMINARY RECITALS**

Pursuant to a petition filed February 25, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Oneida County Department of Social Services in regard to FoodShare benefits (FS), a hearing was held on March 24, 2014, at Rhinelander, Wisconsin.

The issue for determination is whether the Department erred in its denial of FS eligibility based on income over gross income limit.

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: Amy Mayo

Oneida County Department of Social Services  
Oneida Avenue  
PO Box 400  
Rhinelander, WI 54501

**ADMINISTRATIVE LAW JUDGE:**

John P. Tedesco  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Oneida County.
2. Petitioner applied for FS as a food group of two.
3. Petitioner's gross income was budgeted at \$2,674.80 by the agency.

4. The agency denied eligibility.
5. Petitioner filed a request for hearing.

### DISCUSSION

FoodShare benefits and eligibility depend upon income and the size of the household. Households whose gross income exceeds 200% of the federal poverty level are not considered categorically eligible for benefits. *FoodShare Wisconsin Handbook*, § 4.2.1.1. For a 2-person household, the size of the petitioner's, 200% of the federal poverty level is \$2,586.00 per month. *FoodShare Wisconsin Handbook*, § 8.1.1. Gross household income includes all income from any source unless FoodShare regulations specifically exclude it. 7 CFR § 273.9(b). Nothing in the federal regulations excludes any of the petitioner's household income. There is a deduction from *net* income for child support paid out, but deductions from *net* income do not occur until the household demonstrates that it is categorically eligible.

Petitioner's household income includes SS payments to himself and his wife as well as the part B premiums that are deducted. Under FS rules, gross social security payments are budgeted. See FS Handbook, Appendix 4.3.4.1, no. 7. If the Part B premiums are being deducted from the social security checks, the county should add the premiums back in for FS purposes. That occurred here.

The agency determined that the petitioner's gross household income is \$2,674.80. At hearing the petitioner conceded that the respondent's numbers were correct. His only argument at hearing was that he is in debt and does not have enough money.

Because the petitioner has not established any error in the income determination made by the respondent, I must uphold its decision to deny FoodShare to his household.

### CONCLUSIONS OF LAW

The county agency correctly determined that the petitioner's income exceeds the FoodShare program's gross income limit.

**THEREFORE, it is**

**ORDERED**

The petitioner's appeal is dismissed.

### **REQUEST FOR A REHEARING**

You may request a rehearing if you think this decision is based on a serious mistake in the facts or the law or if you have found new evidence that would change the decision. Your request must be **received within 20 days after the date of this decision**. Late requests cannot be granted.

Send your request for rehearing in writing to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400 **and** to those identified in this decision as "PARTIES IN INTEREST." Your rehearing request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and explain why you did not have it at your first hearing. If your request does not explain these things, it will be denied.

The process for requesting a rehearing may be found at Wis. Stat. § 227.49. A copy of the statutes may be found online or 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 filed with the Court **and** served either personally or by certified mail on the Secretary of the Department of Health Services, 1 West Wilson Street, Room 651, Madison, Wisconsin 53703, **and** on those identified in this decision as “PARTIES IN INTEREST” **no more than 30 days after the date of this decision** or 30 days after a denial of a timely rehearing (if you request one).

The process for Circuit Court Appeals may be found at Wis. Stat. §§ 227.52 and 227.53. A copy of the statutes may be found online or at your local library or courthouse.

Given under my hand at the City of Madison,  
Wisconsin, this 21st day of April, 2014

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\sJohn P. Tedesco  
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 April 21, 2014.

Oneida County Department of Social Services  
Division of Health Care Access and Accountability