



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/156027

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**PRELIMINARY RECITALS**

Pursuant to a petition filed March 11, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Price County Department of Social Services in regard to FoodShare benefits (FS), a telephone hearing was held on April 07, 2014.

The issue for determination is whether petitioner is ineligible for FS because of her immigration status.

There appeared at that time 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: Beulah Garcia

Price County Department of Social Services  
PO Box 88  
Normal Bldg., 104 S. Eyder Avenue, Rm. 1  
Phillips, WI 54555

**ADMINISTRATIVE LAW JUDGE:**

Peter McCombs

Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Price County.
2. Petitioner applied for FS, which the respondent denied because petitioner is an ineligible immigrant.
3. Petitioner came to the United States from [REDACTED] in 2011, and was lawfully admitted.

### DISCUSSION

To be eligible for FS, a person must be a U.S. citizen, a qualifying alien, or a member of certain specified classes of immigrants or refugees, none of which apply in this case. 7 C.F.R. §273.4(a). Importantly for this case, an alien lawfully admitted is not eligible for FS for five years from the date of lawful admittance for permanent residence. 7 C.F.R. §274.4(a)(6)(iii). The requirements for eligibility for immigrants also are set out in the FS Handbook, Appendix 3.12.1.1, Chart 1. To be eligible for FS a person must reside in this country as a “qualified alien” for five years, and a “qualified alien” is specifically defined as a person lawfully admitted for permanent residence.

The respondent argued that citizens of [REDACTED] have a special status with the United States that allows them to enter the country, work here and acquire a social security number without obtaining an immigration status. At hearing, and based upon the record before me, I find that the petitioner has not established that she meets any qualifying immigration status. Therefore, I must conclude that the denial for that reason was correct.

### CONCLUSIONS OF LAW

Petitioner is ineligible for FS because she does not have qualifying immigration status.

**THEREFORE, it is**

**ORDERED**

That the petition for review herein be and the same is hereby 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 23rd day of May, 2014

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\sPeter McCombs  
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 May 23, 2014.

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