



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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/157708

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**PRELIMINARY RECITALS**

Pursuant to a petition filed May 19, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Manitowoc County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on June 09, 2014, at Manitowoc, Wisconsin.

The issue for determination is whether Enrollment Services correctly determined the petitioner's FoodShare termination.

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: Sheur Yang

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

**ADMINISTRATIVE LAW JUDGE:**

Peter McCombs (telephonically)  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Manitowoc County.
2. The petitioner is the primary person in a FS household of four.

3. The petitioner receives \$851.43 per month in supplemental security income; her household also receives \$3700.00 in unearned income weekly.
4. Enrollment Services ended the petitioner's FoodShare as of November 1, 2010, because her income exceeds the program's net income limit.

### DISCUSSION

Wisconsin FoodShare policy states that “[m]ost FoodShare groups are considered categorically eligible if their gross income is at or below 200%” of the federal poverty level. *FoodShare Wisconsin Handbook*, § 4.2.1.1. The only exceptions to this rule are for those with felony drug convictions or who have been found to have committed an intentional policy violation of the program. *Id.* Household income includes all income from any source unless FoodShare regulations specifically exclude it. 7 CFR § 273.9(a)(b). None of the petitioner's income is specifically excluded by federal FoodShare regulations. *See* 7 CFR § 273.9(c). The gross income limit for a household of four is \$3,926.00. *Handbook*, App. 8.1.1. The net income limit for a household of four is \$1,963.00. *Handbook*, App. 8.1.1. Petitioner meets the gross income limit, but exceeds the net income limit.

The petitioner's household receives \$851.43 per month in social security retirement benefits and \$370.00 per week in unemployment compensation. Multiplying the \$370.00 weekly unemployment benefit by 4.3 gives a monthly unemployment income of \$1,591.00; 4.3 is used rather than four for the number of weeks in a month because when the 52 weeks in a year are divided by the 12 months, the result is 4.3. The petitioner's total gross monthly income is \$2,442.43, which equals 124.42% of the federal poverty level.

In determining the amount of FS to be issued each month, the county must budget all of the recipient's nonexempt income. 7 C.F.R. §273.9(b). From that income, certain deductions are allowed. The deductions include a standard deduction. 7 C.F.R. §273.9(d)(1); *FS Handbook*, App. 4.6.2. Another deduction is the earned income deduction, which equals 20% of the household's total earned income. 7 C.F.R. §273.9(d)(2); *FS Handbook*, App. 4.6.3. A third possible deduction is for medical expenses exceeding \$35 in a month for elderly or disabled persons. 7 C.F.R. §273.9(d)(3); *FS Handbook*, App. 4.6.4. A fourth deduction is for child/dependent care. 7 C.F.R. §273.9(d)(4); *FS Handbook*, App. 4.6.6. The final deduction is for shelter expenses; the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 C.F.R. §273.9(d)(5); *FS Handbook*, App. 4.6.7. Only the standard deduction applies to petitioner's budget.

As a result, petitioner's net household income equals \$2,279.43, which exceeds the net income limit of \$1,963.00. I have reviewed the respondent's calculations, and have found no error. The petitioner conceded that the household income data utilized by the respondent was correct. If the household's receipt of unemployment does end, she should report this to the respondent, which can re-determine her future benefits.

### CONCLUSIONS OF LAW

The petitioner is ineligible for FoodShare because her net income exceeds FS program net income limits.

**THEREFORE, it is**

**ORDERED**

That 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 18th day of July, 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 July 18, 2014.

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