



STATE OF WISCONSIN  
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/158335

PRELIMINARY RECITALS

Pursuant to a petition filed June 13, 2014, under Wis. Admin. Code, §HA 3.03(1), to review a decision by the Dane County Dept. of Human Services to reduce FoodShare benefits (FS), a hearing was held on July 17, 2014, by telephone.

The issue for determination is whether the county correctly added petitioner's 19-year-old son to her FS household.

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: Sandy Schroeder  
Dane County Dept. of Human Services  
1819 Aberg Avenue  
Madison, WI 53704-6343

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider  
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ) is a resident of Dane County.
2. Until the county action petitioner received FS for herself and a son. On May 13, 2014 petitioner reported that her 19-year-old son had moved back into the home after his college semester ended, and that he had a summer job. The county immediately requested verification of his income.
3. By a notice dated June 10, 2014 the county informed petitioner that FS would end July 1 because verification was not provided. Soon after the verification was provided and petitioner's son's

income was added to the case. By a notice dated June 24 the county informed petitioner that she would receive \$140 FS in July for a three-person household. That amount was a \$207 decrease from June when the household had just two members.

**DISCUSSION**

In determining the amount of FS to be issued each month, the county must budget all of the household’s nonexempt income. 7 C.F.R. §273.9(b). There is no exemption for income of a 19-year-old college student.

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.

Under the federal law, as long as petitioner’s 19-year-old son lives in her household, he must be included in her FS case because he is under age 22. If he is included, his income also must be included. Petitioner testified that he keeps his income to use for school, but clearly the drafters of the FS rules could have exempted the income of college students if they chose to do so. I must conclude that the county correctly determined petitioner’s FS amount after her son moved back into the home.

**CONCLUSIONS OF LAW**

The county correctly added petitioner’s 19-year-old son and his income to petitioner’s FS household when she reported that he moved back into the home for the summer.

**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 22nd day of July, 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 July 22, 2014.

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