



FH
[REDACTED]

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

In the Matter of

[REDACTED] # [REDACTED]
c/o [REDACTED]
[REDACTED]
[REDACTED]

DECISION ON REHEARING

FOO/159190

PRELIMINARY RECITALS

Pursuant to a petition filed July 22, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the La Crosse County Department of Human Services in regard to FoodShare benefits (FS), a hearing was scheduled for August 12, 2014. The petitioner did not appear, and a dismissal order was issued. The petitioner then filed a rehearing request, which was granted. The hearing was then held on September 24, 2014, by telephone.

The issue for determination is whether the Department correctly discontinued the petitioner’s FS during his incarceration.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED] # [REDACTED]
c/o [REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Bob Uebele, ES Worker
La Crosse County Department of Human Services
300 N. 4th Street
PO Box 4002
La Crosse, WI 54601

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of La Crosse County.
2. Prior to June 2014, the petitioner had an open FS case as a household of one person. On May 19, 2014, the Department issued written notice to the petitioner advising that his FS case would close effective June 1, 2014. The Department's basis for discontinuance was that the petitioner was incarcerated. The petitioner appealed.
3. The petitioner's incarceration began on April 15, 2014. It is expected to end on November 2 or 3, 2014. The petitioner has received three meals daily from the jail.

DISCUSSION

A person who is incarcerated or institutionalized for 30 days or more is not eligible to receive FS. *Foodshare Wisconsin Handbook*, §§ 3.2.1.2.2 & 3.2.1.4, at <http://www.emhandbooks.wisconsin.gov/fsh/fsh.htm>. ; 7 C.F.R. § 273.1(b)(7). The theory behind the policy is that the person's nutritional needs are being met by the jail, so FS is a duplicative benefit. There is no dispute as to the duration or fact of the petitioner's incarceration. Thus, the closure was correct.

The petitioner may reapply for FS benefits as soon as he is released from jail.

CONCLUSIONS OF LAW

1. The Department correctly discontinued FS benefits to the petitioner.

THEREFORE, it is

ORDERED

That the petition is dismissed.

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 25th day of September, 2014

\sNancy J. Gagnon
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 September 25, 2014.

La Crosse County Department of Human Services
Division of Health Care Access and Accountability