



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[Redacted]
[Redacted]
[Redacted]

DECISION

FOO/159282

PRELIMINARY RECITALS

Pursuant to a petition filed July 22, 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 August 28, 2014, by telephone (at the petitioner’s 8/28/14 request).

The issue for determination is whether the county agency correctly discontinued the petitioner’s FS due to excess income, effective August 1, 2014.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[Redacted]
[Redacted]
[Redacted]

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Respondent:

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

By: Lori Baranczyk, ES Spec.
Manitowoc County Department of Human Services
3733 Dewey Street
Manitowoc, WI 54221-1177

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [Redacted]) is a resident of Manitowoc County.
2. The petitioner had an ongoing FS case for a household of one person. On June 30, 2014, she reported to the Department that her daughter and a boyfriend had moved into her household.

When asked if they shared and prepared food together, the petitioner responded affirmatively. The two persons were added to the petitioner's household, along with their income.

3. On July 3, 2014, the Department issued written notice to the petitioner advising that her FS case would be discontinued effective August 1, 2014. The basis for discontinuance was excess income.
4. The petitioner's daughter, age 19, moved out of the household on August 28, 2014. The petitioner has reported this change, which the agency will act on shortly.
5. The petitioner continues to purchase and prepare food with her boyfriend, in their current household of two persons.

DISCUSSION

When adults reside together and share food, the federal regulations require that they be treated as one FS household. 7 C.F.R. §273.1(b); *FoodShare Wisconsin Handbook, (FSWH)*, 3.3.1.2. The agency contends that the petitioner, her daughter and a boyfriend resided together and shared food beginning in June 2014 and continuing into August 2014.

The federal FS rule on household composition reads 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.**

(b) *Special household requirements.*--(1) Required household combinations. 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. A child must be considered to be under parental control for purposes of this provision if he or she is financially or otherwise dependent on a member of the household, unless State law defines such a person as an adult.

(emphasis added)

7 C.F.R. §273.1(a),(b). See also, *FS Wisconsin Handbook (FSWH)*, § 3.3.1.2 - .3, viewable at <http://www.emhandbooks.wisconsin.gov/fsh/fsh.htm>.

The petitioner agrees that her daughter joined her household in late April 2014, and that her boyfriend joined the household in June 2014. The amount of each person's income is not in dispute. Similarly, the

petitioner agrees that they purchase and prepare food together. Thus, the agency correctly included all three persons and their income in determining that the household was ineligible for FS for August 2014.

CONCLUSIONS OF LAW

1. The county agency correctly discontinued the petitioner’s FS effective August 1, 2014.

THEREFORE, it is

ORDERED

That the petition 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 2nd 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 2, 2014.

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