



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/159979

PRELIMINARY RECITALS

Pursuant to a petition filed August 16, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Marquette County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on September 9, 2014, at Montello, Wisconsin.

The issue for determination is whether the agency correctly discontinued the petitioner's FS case effective June 30, 2014.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: Annett Mooney, ES Spec.

Marquette County Department of Human Services
480 Underwood Avenue
PO Box 99
Montello, WI 53949-0099

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon (telephonically)
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [redacted]) is a resident of Marquette County.

2. The petitioner had an ongoing FS case for herself and her children, which did not include adult [REDACTED] [REDACTED] prior to July 2014. On June 10, 2014, the petitioner submitted a Six Month Report Form (SMRF) to the agency, which listed [REDACTED] as a household member.
3. On June 11, 2014, the county agency issued a written verification request to the petitioner. It directed her to provide verification of Mr. [REDACTED]'s recent earned income to the agency by June 20, 2014. That verification was not provided.
4. Mr. [REDACTED] is the father of one of the petitioner's children, JM, who is on her FS case. The father is employed by [REDACTED] [REDACTED].
5. The agency obtained a state wage database cross-match record (information provided by the employer to the Wisconsin Department of Workforce Development) which showed that Mr. [REDACTED]'s gross wages caused the petitioner's household to exceed the gross income limit for the FS program. On June 19, 2014, the agency issued written notice to the petitioner advising that her FS case would be discontinued effective June 30, 2014, due to excess household income.

### DISCUSSION

The petitioner's household's gross income amount is not in dispute. The budgeting calculations here were performed prospectively. Prospective budgeting should reflect what the petitioner is likely to receive, on average, each month. *FS Wisconsin Handbook (FSWH)*, 4.1.1, available at <http://www.emhandbooks.wisconsin.gov/fsh/fsh.htm>.

Mr. [REDACTED] and his income have to be included in the petitioner's FS household because they reside together and he is the father of one of the petitioner's children, per federal rule. 7 C.F.R. § 273.1. In this case, the father's income of \$2,916.44 exceeds the gross income limit for a household of four persons. That limit is currently \$2,552. *FSWH*, §8.1.1. The federal rule requires use of gross income. 7 C.F.R. §273.9(a),(b); *FSWH*, §4.2.1.1. Even if the petitioner's household was under the gross limit, after subtraction of the limited allowable deductions, the household's adjusted income was over the net income limit of \$1,963 for four persons in 2014. Therefore, the Department acted correctly in discontinuing benefits here.

The petitioner also appealed an FS overpayment; that decision will be issued separately.

### CONCLUSIONS OF LAW

1. The agency correctly discontinued the petitioner's FS due to excess household income, which included Mr. [REDACTED]'s income.

**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 10th day of September, 2014

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\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 10, 2014.

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