



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/160121

PRELIMINARY RECITALS

Pursuant to a petition filed August 21, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Pierce County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on September 17, 2014, at Ellsworth, Wisconsin.

The issue for determination is whether the county agency correctly determined the petitioner's FoodShare allotment.

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: Carol Hilsgin

Pierce County Department of Human Services
412 West Kinne Street
PO Box 670
Ellsworth, WI 54011

ADMINISTRATIVE LAW JUDGE:

Michael D. O'Brien
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # [REDACTED]) is a resident of Pierce County.
2. The county agency notified the petitioner on July 31, 2014, that her FoodShare benefits would end as of September 1, 2014, because household's income exceeded the program's limit.

3. The petitioner receives \$1,455 a month in SSDI and \$388.45 in disability insurance. Her husband earned \$1,376.50 a month as of July 2014 and \$3,047.50 as of August 2014.
4. Two hundred percent of the federal poverty level for a two-person household is \$2,586. *FoodShare Wisconsin Handbook*, § 8.1.1.

DISCUSSION

FoodShare benefits and eligibility depend upon income and the size of the household. Households whose gross income exceeds 200% of the federal poverty level are not considered categorically eligible for benefits. *FoodShare Wisconsin Handbook*, § 4.2.1.1. For a two-person household, the size of the petitioner's, 200% of the federal poverty level is \$2,586 per month. *FoodShare Wisconsin Handbook*, § 8.1.1. Gross household income includes all income from any source unless FoodShare regulations specifically exclude it. 7 CFR § 273.9(b). Nothing in the federal regulations excludes any of the petitioner's household income.

The agency determined that the petitioner's gross household income is \$3,514.45. I do not understand how it arrived at this figure. Its notice indicated that as of July 2014 the petitioner received \$388.45 in disability benefits and \$1,455 in social security and that her husband earned \$1,376.50 a month. This totals \$3,219.95. It indicated that in August her husband's income rose to \$3,047.50, which would make the household income almost \$5,000 per month. Although the exact amount of the petitioner's income is unclear, neither party disputes that it exceeds \$2,586 per month. Because this is over 200% of the federal poverty level, the agency correctly determined that she is ineligible for FoodShare.

CONCLUSIONS OF LAW

The petitioner is ineligible for FoodShare because her household's gross income exceeds 200% of the federal poverty level.

THEREFORE, it is

ORDERED

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 23rd day of September, 2014

\sMichael D. O'Brien
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

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Madison, WI 53705-5400

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The preceding decision was sent to the following parties on September 23, 2014.

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