



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/160226

PRELIMINARY RECITALS

Pursuant to a petition filed August 28, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on September 30, 2014, at Milwaukee, Wisconsin.

The issue for determination is whether the respondent correctly terminated petitioner's FS enrollment due to income exceeding program limits.

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: Simone Johnson
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Peter McCombs (telephonically)
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County who has received sporadic FS benefits since 2012. See, Exhibit 2.

2. On August 4, 2014, the respondent notified petitioner, in writing, that his FS enrollment would terminate as of September 1, 2014, due to household income exceeding the FS program limit. Exhibit 5.
3. Petitioner's gross income, as calculated by the respondent, was based upon information contained on petitioner's paystubs dated July 4, 2014, July 11, 2014, and July 18, 2014. See, Exhibits 4 and 6.

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. This means that it cannot receive benefits regardless of what its net income is. For a one-person household, the size of the petitioner's, 200% of the federal poverty level is \$1,946 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). The petitioner's household income is \$2,364.40, so it is categorically ineligible for benefits.

Petitioner argues that his net income is nowhere near his gross income, and that his weekly income changed in mid-September. As to the termination of his FS benefits effective September 1, 2014, his arguments fail on both counts. FS regulations require the eligibility determination to begin with a threshold finding of **gross** income below 200% of the poverty level. *FoodShare Wisconsin Handbook*, § 4.2.1.1. And while the fact that his income changed in mid-September may result in a finding of eligibility going forward, it does not establish any error on the part of the respondent in finding him ineligible for FS benefits as of September 1, 2014. As such, based on the record before me, I find no error on the part of the respondent in determining petitioner's FS eligibility.

In light of the recent change in petitioner's household income, petitioner is advised to contact the respondent in order to determine his FS eligibility going forward.

CONCLUSIONS OF LAW

The county agency correctly determined that the petitioner's gross income exceeds the FoodShare program's limit.

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 October, 2014.

\sPeter McCombs
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 October 23, 2014.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability