



FH  
[REDACTED]

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

---

In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

DECISION

FOO/161201

---

**PRELIMINARY RECITALS**

Pursuant to a petition filed October 10, 2014, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Brown County Human Services in regard to FoodShare benefits (FS), a hearing was held on November 12, 2014, at Green Bay, Wisconsin.

The issue for determination is whether the petitioner is purchasing and preparing FoodShare together with her mother.

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: Judy Steffens

Brown County Human Services  
Economic Support-2nd Floor  
111 N. Jefferson St.  
Green Bay, WI 54301

**ADMINISTRATIVE LAW JUDGE:**

Peter McCombs (telephonically)  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Brown County.
2. The county agency determined that the petitioner and her mother should be included in the same FS household because she purchases and prepares food with her mother.

3. The county agency determined that the petitioner's FoodShare benefits would end as of September 2014, because she purchases and prepares food with her mother and her mother's income places the household over the program's limit.
4. The petitioner and her mother do not purchase and prepare food together.
5. The petitioner is 26 years old.

### DISCUSSION

FoodShare eligibility depends upon the number of persons and total income of a household. A FoodShare household consists of all persons who purchase and prepare food together. If a single person lives with others but purchases and prepares food separately, she can be considered part of a separate household. Children under 22 years old who live with a parent are always considered part of that parent's household. 7 CFR § 273.1.

The petitioner, who is 26 years old, lives with her mother who is presently separated from her husband. When she renewed her application, the worker interviewing her determined that she and her mother now purchase and prepare food together and thus must be included in the same household. That worker testified at hearing that petitioner herself indicated that she and her mother prepare food together. The petitioner countered that she had told the worker that her mother was only staying with her temporarily. Petitioner additionally testified that they did not share food after August, when it appeared that her mother would be staying longer than anticipated originally.

Petitioner contends that she and her mother each purchase their own food and cook their own meals. They may sit down at the same time to eat, but they do not eat the same food. The petitioner has the burden of proving that she is eligible for FoodShare, but her burden is only by the preponderance of the credible evidence, a fairly low burden that requires only that she prove that it is more likely than not that what she asserts is true. Because her testimony concerning her conversation with the worker about household composition was largely corroborative and uncontroverted, and because she seemed credible, I will accept it as true. In doing so, I do not question the worker's honesty. Rather, I acknowledge that a person's meaning can be misunderstood, especially where, as here, there is a minor language barrier. In this matter, I had to ask the petitioner several times about certain facts before I understood her testimony.

Because the petitioner's mother is not part of her household, petitioner should not be included in her mother's FS case as of September 1, 2014. I will remand this matter to the agency to re-determine the petitioner's eligibility as of September 1, 2014.

### CONCLUSIONS OF LAW

The county agency incorrectly included petitioner in her mother's FS household when determining the petitioner's FoodShare eligibility because the two do not purchase and prepare food together.

**THEREFORE, it is**

**ORDERED**

That this matter is remanded to the county agency with instructions that within 10 days of the date of this decision it redetermine the petitioner's FoodShare eligibility and allotment for September, 2014, forward. When doing so, it shall not include petitioner in her mother's FS household.

**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 25th day of November, 2014.

---

\sPeter McCombs  
Administrative Law Judge  
Division of Hearings and Appeals



**State of Wisconsin\DIVISION OF HEARINGS AND APPEALS**

Brian Hayes, Administrator  
Suite 201  
5005 University Avenue  
Madison, WI 53705-5400

Telephone: (608) 266-3096  
FAX: (608) 264-9885  
email: [DHAmail@wisconsin.gov](mailto:DHAmail@wisconsin.gov)  
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on November 25, 2014.

Brown County Human Services  
Division of Health Care Access and Accountability