



FH

Redact

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

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In the Matter of

[Redacted]  
[Redacted]  
*Redact*

DECISION

FOO/161768

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**PRELIMINARY RECITALS**

Pursuant to a petition filed November 07, 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 telephonic hearing was held on November 25, 2014, at Milwaukee, Wisconsin. Due to lack of clarity and evidentiary confusion during the hearing, the record was held open until December 5, 2014 for a detailed, written summary from MES to clarify MES's case, and to provide the opportunity for a written response by the petitioner. DHA did not receive any timely submission from MES or any statement from the petitioner.

The issue for determination is whether there is sufficient reliable evidence in the hearing record to determine whether Milwaukee Enrollment Services (MES) correctly calculated and issued FoodShare (FS) benefits to the petitioner as of July, 2014.

There appeared at that time and place the following persons:

**PARTIES IN INTEREST:**

Petitioner:

[Redacted]  
[Redacted]  
*Redact*

Respondent:

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

By: Pang Thao-Xiong, IMM advanced  
Milwaukee Enrollment Services  
1220 W Vliet St, Room 106  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Gary M. Wolkstein  
Division of Hearings and Appeals

### FINDINGS OF FACT

1. Petitioner (CARES # Redact) is a resident of Milwaukee County who resides with her two children.
2. The petitioner received FoodShare (FS) benefits of \$142 during July, 2014 for a FS household of three.
3. There was insufficient reliable evidence to determine whether or not petitioner actually started employment and received income from Redact during the period of about July, 2014.
4. During the November 25, 2014 hearing, the Milwaukee Enrollment Services (MES) representative, Ms. Pang Thao-Xiong, was unable to provide a copy of any Notice of Decision sent to the petitioner to notify her of the calculation of her FS benefits as of July, 2014. and to provide an explanation of petitioner's hearing rights.
5. MES did not provide any reliable, non-hearsay evidence of the petitioner's household earned and unearned (Social Security or W-2) income in order to determine with reliability whether MES accurately determined petitioner's FS benefits for a FS group of three as of July, 2014.
6. During the hearing, petitioner explained without documentation that there were changes in her FS household's earned and unearned income which indicate that the county agency needs to recalculate the petitioner's FS benefits as of July 1, 2014 and continuing.
7. Due to lack of clarity and evidentiary confusion during the hearing, the hearing record was held open until December 5, 2014 for a detailed, written summary from MES to clarify MES's case, and to provide the opportunity for a written response by the petitioner. DHA did not receive any timely submission from MES or any statement from the petitioner. See above Preliminary Recitals.

### DISCUSSION

During the November 25, 2014 hearing, there was confusion, and a lack of reliable, non-hearsay evidence as to whether Milwaukee Enrollment Services (MES) correctly calculated and issued FS benefits to the petitioner as of July, 2014. See above Findings of Fact. The petitioner alleged that she never started her employment at Redact, even though MES had budgeted income from that employer as of July, 2014. Petitioner alleged there were other mistakes by MES in the calculation of her FS benefits as of July, 2014. As indicated in Finding of Fact #3 - #7 above, no reliable, non-hearsay evidence of the petitioner's household earned and unearned income was established by MES in order to determine whether MES accurately determined petitioner's FS benefits as of July, 2014.

The county agency has the burden of proof to establish a prima facie case that it correctly and accurately determined petitioner's FS benefits as of July, 2014. As explained above, there is simply not enough reliable, non-hearsay testimony or documentation in the hearing record to determine whether the county correctly or accurately issued FS benefits to the petitioner as of July, 2014 for her FS household of three persons. Accordingly, based upon the above, I conclude that there is insufficient reliable evidence in the hearing record to determine whether the county agency correctly calculated and issued FS benefits to the petitioner as of July, 2014.

### CONCLUSIONS OF LAW

There is insufficient reliable evidence in the hearing record to determine whether the county agency correctly calculated and issued FS benefits to the petitioner for a FS group of three as of July, 2014.

**THEREFORE, it is**

**ORDERED**

The matter is remanded to Milwaukee Enrollment Services (MES) with instructions to: a) re-determine petitioner's FS benefits as of July, 2014 for a FS group of three; b) issue a new notice of decision which explains in detail the county's re-calculation of petitioner's FS benefits for a group of three as of July, 2014; and c) if appropriate, issue to the petitioner any supplemental FS benefits to which petitioner may be entitled retroactive to July 1, 2014, within 10 days of the date of this Decision. If the petitioner disagrees with the new notice, petitioner must submit a new appeal to DHA specifying what she is appealing, and include a copy of that new notice with her new appeal.

**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 22nd day of December, 2014

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\sGary M. Wolkstein  
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 December 22, 2014.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability