



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[Redacted]
[Redacted]
Redact

DECISION

FOO/162048

PRELIMINARY RECITALS

Pursuant to a petition filed November 17, 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 December 11, 2014, at Montello, Wisconsin.

The issue for determination is whether the agency has met its burden to support the reduction in FS.

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: [Redacted]

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

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [Redacted]) is a resident of Marquette County.
2. Petitioner is a FS recipient as a household of 2.
3. Petitioner holds a promissory note from [Redacted] and he pays \$300 per week to her to cover liability for debts to creditors. The money is used to pay the debts and no other purpose.

4. The agency budgeted this money toward the household for FS purposes.
5. The FS allotment was reduced effective 1/1/15 from \$317 to \$163.
6. Petitioner appealed.

### DISCUSSION

The FS Handbook states that “Income is any gain or benefit that can be used to purchase goods and services.” FSH § 4.3.1. By the terms of the promissory note submitted by both parties, this money is not available to petitioner. The agency presented no evidence to the contrary. I note that the agency appears not to have counted the child support claimed by petitioner in her appeal letter (see FSH § 4.3.4.2).

### CONCLUSIONS OF LAW

The allotment must be redetermined.

**THEREFORE, it is**

### ORDERED

The matter is remanded to the agency with instructions to disregard the \$300 per week paid under the note and to redetermine FS allotment. This must be completed within 10 days.

### **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 8th day of January, 2015

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\sJohn P. Tedesco  
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 January 8, 2015.

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