



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/163986

PRELIMINARY RECITALS

Pursuant to a petition filed February 11, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Wood County Human Services - WI Rapids in regard to FoodShare benefits (FS), a telephone hearing was held on March 17, 2015.

The issue for determination is whether the respondent correctly determined petitioner's FS household.

There appeared at that time 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: Beulah Garcia

Wood County Human Services - WI Rapids
320 West Grand Avenue
PO Box 8095
Wisconsin Rapids, WI 54495-8095

ADMINISTRATIVE LAW JUDGE:

Peter McCombs

Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Wood County.
2. Petitioner is 20 years old and resides with VM, the mother of his child, LH, his minor child, and MM, VM's mother. VM is under the age of 22.

3. Petitioner previously had his own FS case, as he reported purchasing and consuming his own food while residing with VM and MM.
4. The respondent added petitioner to MM's FS case due to the fact that parents and children under the age of 22 must be included in the same FS household, regardless of whether or not they purchase and consume food together.

DISCUSSION

Petitioner appeals because he wishes to be in a separate FS household from his daughter, his daughter's mother, and his daughter's maternal grandmother. Petitioner states that he does not purchase and prepare meals with his daughter's mother and/or his daughter's maternal grandmother.

The basic definition of a "household" for purposes of FS is a group of individuals who live together and customarily purchase food and prepare meals together for home consumption. 7 C.F.R. §§ 273.1(a)(3) (2010); FoodShare Wisconsin Handbook ["FWH"] 3.3.1. A person under 22 years of age who is living with his or her natural or adoptive parents must be considered as customarily purchasing food and preparing meals together with his or her parents even if he or she does not do so, and thus must be included in the same household as his or her parents. 7 C.F.R. §§ 273.1(b)(1)(ii) (2010); FoodShare Wisconsin Handbook § 3.3.1.3.2. It follows that VM (under the age of 22) and MM must be in the same FS household. VM pulls her minor daughter, LH into the household, and LH's father must be included in LH's household. Petitioner cannot be a separate FS household from his minor daughter with whom he resides. Id. At 3.3.1.3.

Petitioner testified that he still does not share food with VM's family, and was laid off in November. His current employment does not pay well, which leaves little money for him to buy food. I have no reason to doubt the veracity and sincerity of petitioner's testimony, but that does not change the FS regulations, as explained above, that apply in this case.

CONCLUSIONS OF LAW

For the reasons discussed above, the respondent was correct to include petitioner, his daughter, her mother, and her maternal grandmother all in the same FS household as they presently reside together.

NOW, THEREFORE, it is ORDERED

That the petition for review herein be and the same is hereby 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 25th day of March, 2015.

\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 March 25, 2015.

Wood County Human Services - WI Rapids
Division of Health Care Access and Accountability