



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

In the Matter of:

[Redacted]
Redact
[Redacted]

DECISION

FOO/164785

PRELIMINARY RECITALS

Pursuant to a petition filed March 19, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the La Crosse County Department of Human Services ["County"] in regard to FoodShare benefits ["FS"], a Hearing was held via telephone on April 21, 2015.

The issue for determination is whether petitioner, his grandson, and AME must all be included in the same FS household.

There appeared at that time via telephone the following persons:

PARTIES IN INTEREST:

Petitioner:

[Redacted]
Redact
[Redacted]

Respondent:

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

BY: [Redacted], ES Supervisor
La Crosse County Department of Human Services
300 N. 4th Street
PO Box 4002
La Crosse, WI 54601

ADMINISTRATIVE LAW JUDGE:

Sean P. Maloney
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (50 years old) is a resident of Monroe County, Wisconsin.

2. Petitioner has a 1 year old grandson; he has custody of his grandson; his grandson lives with him and he provides care for his grandson; petitioner and his grandson are in the same FS household.
3. Adult female AME lives with petitioner and his grandson; AME helps petitioner watch and provide care for his grandson; the grandson's mother has signed documents allowing petitioner and AME to make medical decisions for the grandson; AME accompanies the grandson to medical appointments; petitioner and AME allow people (including the grandson's medical doctor) to assume that they are both the grandparents.

DISCUSSION

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) (2015); *FoodShare Wisconsin Handbook* ["FSWH"] 3.3.1.1.

A child (other than a foster child) under 18 years of age who lives with and is under the parental control of a household member other than his or her parent must be considered as customarily purchasing food and preparing meals with the others, even if they do not do so, and thus must be included in the same household. An adult providing parental control acts as a parent would toward the minor child. A minor child is considered under parental control if the child is financially or otherwise dependent on a member of the household. 7 C.F.R. § 273.1(b)(1)(iii) (2015); See also, FSWH 3.3.1.3.3 & 3.3.1.2.

This matter must be decided based on a preponderance of the credible evidence. Wis. Admin. Code § HA 3.09(4) (February 2013). The evidence in that case is that AME is acting as a parent would toward the grandson (she helps to watch him; she provides care for him; there are documents allowing her to make medical decisions; and, she accompanies him to medical appointments). Thus, AME must be included in the same household as the grandson. As noted above, petitioner and his grandson are in the same household. This means that AME, petitioner, and petitioner's grandson must all 3 be in the same household.

Petitioner argues that AME is in a wheelchair, has a caregiver herself, and has a special diet. Thus all may be correct -- but because she acts as a parent would toward the grandson she must be included in the same household as petitioner and his grandson.

CONCLUSIONS OF LAW

For the reason discussed above, petitioner, his grandson, and AME must all be included in the same FS household.

THEREFORE, it is

ORDERED

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 29th day of April, 2015

\sSean P. Maloney
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 April 29, 2015.

La Crosse County Department of Human Services
Division of Health Care Access and Accountability