



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/171840

PRELIMINARY RECITALS

Pursuant to a petition filed February 02, 2016, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Dane County Department of Human Services in regard to FoodShare benefits (FS), a telephone hearing was held on March 08, 2016.

The issue for determination is whether the respondent correctly determined petitioner's income for FS eligibility purposes.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: [Redacted]

Dane County Department of Human Services
1819 Aberg Avenue
Suite D
Madison, WI 53704-6343

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [Redacted]) is a resident of Dane County.
2. The petitioner lives alone.

3. The petitioner holds an interest in an [REDACTED]. His 2014 federal income tax return, the latest available, indicates that his countable income was \$3,769.12 per month.
4. For a one-person household, 200% of the federal poverty level is \$1,962 per month. *FoodShare Wisconsin Handbook*, § 8.1.1.

### DISCUSSION

Wisconsin FoodShare policy states that “[m]ost FoodShare groups are considered categorically eligible if their gross income is at or below 200%” of the federal poverty level. *FoodShare Wisconsin Handbook*, § 4.2.1.1. The only exceptions to this rule are for those with felony drug convictions or who have been found to have committed an intentional policy violation of the program. *Id.* For a one-person household, the size of the petitioner’s, 200% of the federal poverty level is \$1,962 per month. *FoodShare Wisconsin Handbook*, § 8.1.1. Household income includes all income from any source unless FoodShare regulations specifically exclude it. 7 CFR § 273.9(b). Self-employment income must be averaged “over the period the income is intended to cover...” 7 CFR § 273.11(a)(1)(i).

The county agency determined that the petitioner is ineligible for FoodShare after determining that his total income exceeds 200% of the federal poverty level. The source of contention between the parties is whether income reported on his federal income tax return counts toward the limit where, as the petitioner contends, that reported income is not a true demonstration of his actual income. The petitioner testified that he does not actually receive the income that his accountant reports. In fact, in his appeal filing, petitioner alleges that his accountant “is doing something wrong on my taxes.” He further asserts that he only pays himself when the company has extra funds, and is only barely getting by financially.

Petitioner’s stated business income cannot be disregarded. While I have no reason to doubt that much of his income is earmarked to pay obligations, that does not mean that it can be disregarded for FS budgeting purposes. It is up to him to prove by the preponderance of the credible evidence that he is eligible for FoodShare, which requires him to prove that he does not receive income from his [REDACTED] that causes him to exceed FS program limits. Because his federal income tax return indicates that he does receive such income from the corporation, he has not met his burden of proving that he is eligible for FoodShare.

### CONCLUSIONS OF LAW

The petitioner is ineligible for FoodShare because his gross countable income exceeds 200% of the federal poverty level.

**THEREFORE, it is**

**ORDERED**

The petitioner's appeal is 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 28th day of March, 2016

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\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 28, 2016.

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