



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION
Case #: FOO - 176267

PRELIMINARY RECITALS

Pursuant to a petition filed on August 20, 2016, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Dane Cty. Dept. of Human Services regarding FoodShare benefits (FS), a hearing was held on September 20, 2016, by telephone.

The issue for determination is whether the agency correctly discontinued petitioner's FoodShare (FS) benefits as of September 1, 2016 due to being over the gross income limit.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: [Redacted]
Dane Cty. Dept. of Human Services
1819 Aberg Avenue
Suite D
Madison, WI 53704-6343

ADMINISTRATIVE LAW JUDGE:

Kristin P. Fredrick
Division of Hearings and Appeals

FINDINGS OF FACT

- 1. Petitioner (CARES # [Redacted]) is a resident of Dane County.
2. Petitioner began receiving FoodShare (FS) benefits in July 2016 for a household of one.

3. On August 5, 2016, the petitioner submitted an online Access Change Report reporting employment at [REDACTED] at \$12.00 per hour and for 39 hours per week.
4. Based upon the petitioner's reported employment, the agency calculated her income to be above the program's counted monthly income limit of \$981.
5. On August 15, 2016, the agency sent the petitioner a Notice of Decision regarding the termination of her FS benefits effective September 1, 2016.

### DISCUSSION

FoodShare (FS) benefits are calculated pursuant to 7 C.F.R. § 273.9; see also *FoodShare Wisconsin Handbook*, §1.1.4. The maximum FS allotment amounts, based on household size, are listed at *FoodShare Wisconsin Handbook*, Appendix 8.1. In general, a household must initially pass the so-called "gross income limit". The FS eligibility calculation process allows for certain deductions from gross income to arrive at a "net income" then tested against a "net income limit". But this process only occurs if the household first passes the gross income test. If the applying household does not pass the gross income test, then the net income test, and the applicable deductions, are not even reached.

The gross income limit test does not apply to households with elderly or disabled members. *FoodShare Wisconsin Handbook*. "Disabled" means that the applicant has been determined by the Disability Determination Bureau (DDB) to have disability or is receiving one of the following: Supplemental Security Income (SSI) or Disability Insurance Benefits (DIB) from the Social Security Administration; interim assistance pending a SSI or DIB application from the Social Security Administration; SSI-State Supplement benefits from the State in which he or she resides; Veteran's Administration benefits of certain types; retired federal workers receiving disability payments; and railroad workers receiving an annuity under the Railroad Retirement Act of 1974. See, 7, C.F.R. § 271.2 *Definitions. Elderly or disabled member*, at §§ (1-11); *FoodShare Wisconsin Handbook*, § 3.8.1.1. ("Elderly" means 60 years old or older.) *Ibid*.

In this case, petitioner is forty-eight years old and has asserted having numerous medical issues, but has presented no evidence of having been determined to be disabled as defined under the law. Therefore, petitioner's FS household must first pass the gross income eligibility limit. Petitioner's FS household of one has a categorical gross monthly income limit of \$1,962 per *FoodShare Wisconsin Handbook*, §8.1.1 (200% FPL). Petitioner's household's gross income of \$2,012.40 was above the gross income eligibility limit for a household of one. In addition, her net income was also above the counted income limit of \$981.00.

The petitioner did not dispute the agency's calculation of her income. Because the petitioner's household's income did not pass the gross income test and it is unrefuted that petitioner's gross household income was above the applicable income limit for a FS household of one, I must conclude that the agency correctly discontinued the petitioner's FS benefits effective September 1, 2016. Should the petitioner's monthly income change, and/or her household size change and/or should she be able to provide documentation to the agency to support a determination as to whether she may have one or more health conditions that qualify as a disability (under Medicaid, MAPP or some other program), then she should reapply.

### CONCLUSIONS OF LAW

Dane County Dept. of Human Services correctly discontinued the petitioner's FoodShare (FS) benefits effective September 1, 2016, due to gross household income above the FS gross income eligibility limits.

**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, **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 26th day of September, 2016

\s \_\_\_\_\_  
Kristin P. Fredrick  
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 September 26, 2016.

Dane Cty. Dept. of Human Services  
Division of Health Care Access and Accountability