



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: FOO - 220441

PRELIMINARY RECITALS

Pursuant to a petition filed on October 7, 2025, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Barron County Department of Human Services regarding FoodShare benefits (FS), a hearing was held on January 21, 2026, by telephone.

The issue for determination is whether the agency erred in its effectuating the transfer of petitioner's children from his FS case to that of the other parent.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

Department of Health Services
201 E. Washington Ave.
Madison, WI 53703

By: D. Stellrecht

Barron County Department of Human Services
Courthouse Room 338
335 E Monroe Ave
Barron, WI 54812

ADMINISTRATIVE LAW JUDGE:

John Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Polk County.

2. Petitioner was enrolled in the FS program with a household including himself and three minor children.
3. Petitioner began the periodic review process in his FS case by submitting a six-month report form on 8/4/25.
4. At that time, the agency saw that the minor children were recipients of unearned income. Petitioner explained to the agency that the benefits were not paid to the other parent and not to him, and he did not have access to those funds. The agency requested documentation relating to this income as part of its verification process to determine whether it should be counted on petitioner's FS case.
5. On 8/5/25 the agency sent a document entitled Required Next Steps To Receive Your Benefits. The document stated that petitioner was required to submit documentation verifying the amount received per month for each of his minor children on his FS case. The notice stated that the verifying documents could be a statement, pay stubs, tax documents, or similar. The deadline for petitioner to submit the documentation about the unearned income paid to the children was 8/25/25.
6. The notice to petitioner informed him that "[i]f you do not provide the proof by the due dates, your benefits will be denied, decreased, or ended."
7. On 8/19/25 the agency sent a notice stating that petitioner's FS would terminate as of 9/1/25 because the requested proof had not been submitted.
8. As of 8/25/25 the agency had not received the requested verification.
9. Petitioner's FS case closed as of 9/1/25.
10. The children began receiving FS on the other parent's FS case.
11. The two parents do not live together. They share placement of the children with petitioner having 43% placement and the other parent having 57% placement according to a Barron County Circuit Court order in case number [REDACTED].
12. Petitioner re-applied for FS on 10/3/25 as a household including the children. The agency determined that the other parent had primary placement and allowed the children to remain on the FS case of the other parent. The agency denied petitioner's FS application as a group of one person as petitioner was over the income limit.
13. On October 7, 2025, the petitioner filed a Request for Fair Hearing form with the Division. The form indicated that petitioner was appealing an action effective on October 7, 2025. The form indicated that the issue being appealed was a FoodShare application denial and FoodShare that was not received.

DISCUSSION

FoodShare (FS) is a U.S. Department of Agriculture program that provides a subsidy for low-income families to supplement their grocery budget and promote healthy eating. Federal regulations and state policy set forth rules the Wisconsin Department of Health Services ("Department") must follow in determining eligibility for FS and calculating the amount of monthly FoodShare benefits to which an eligible household is entitled. See 7 C.F.R. §§273.1 – 273.32 and *FoodShare Wisconsin Policy Handbook (FS Handbook)*.

The petitioner is appealing the fact that three of his minor children are receiving FS benefits on their mother's case. The mother has 57% placement by court order.

The *FS Handbook* at Section 3.2.1.1 addresses the rule for FS case inclusion of minor children when parents share placement but cannot agree on which parent claims the children on a FS case:

Primary Caregiver or Parent

In most cases, children are included in the assistance group of the person who filed first. If this is not satisfactory, the parents or guardians must mutually decide which assistance group includes the children. This mutual agreement must be documented in the case file.

If there is a dispute regarding assistance group placement, then a primary caregiver or parent is determined by the IM worker. The children are then included within the primary caregiver or parent's assistance group.

A court order establishing a primary caregiver or parent should be followed. A court order may reference the person exercising parental control, the person with primary placement, or similar language.

(Emphasis added.) *FS Handbook* § 3.2.1.1.

It is undisputed that the children's mother applied for and has been approved for FS benefits with the minor children. There is a dispute as the core of petitioner's appeal is that he wishes the children be replaced on his case so that he can get the benefits on their behalf.

The Handbook requires that the agency determine the primary parent. The agency did that consistent with the relevant program rule. Based on the court order, the primary parent is not petitioner. The agency did not err.

In this case, the termination due to failure to provide verification is a red herring and does not matter. As soon as the other parent applied for FS there was a dispute relating to which case the children should be on. The children would have been placed on the other parent's FS case regardless of whether petitioner's case was open or closed because she has primary placement.

Finally, petitioner voiced concern that the other parent may be acting unethically relating to benefits receipt. I am not an investigator and DHA is not an enforcement agency. I do not address petitioner's accusations against the children's other parent for those reasons.

CONCLUSIONS OF LAW

Petitioner failed to establish that the children should be included on his FS case or that he is otherwise eligible for FS or that any error was committed by the agency with regard to his FS case.

THEREFORE, it is

ORDERED

That this matter 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, 4822 Madison Yards Way, 5th Floor North, 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.

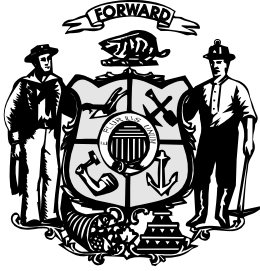
APPEAL TO COURT

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, 201 E. Washington Ave., **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 9th day of February, 2026

\s _____
John 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 February 9, 2026.

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