



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: FOO - 220942

PRELIMINARY RECITALS

Pursuant to a petition filed on November 25, 2025, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Washburn County Department of Social Services regarding FoodShare benefits (FS), a hearing was held on December 23, 2025, by telephone. The hearing record was left open for 10 days following the hearing for the petitioner to submit additional documentation.

The issue for determination is whether the agency correctly counted the petitioner's employer reimbursements for food and housing as part of her income for FoodShare benefits.

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: Miranda Lutz

Washburn County Department of Social Services
110 W 4th Avenue
PO Box 250
Shell Lake, WI 54871

ADMINISTRATIVE LAW JUDGE:

Kate J. Schilling
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a married resident of Washburn County.
2. On August 29, 2025, the petitioner applied for FoodShare benefits.
3. On September 4, 2025, the petitioner completed her FoodShare telephone interview. The case pended for income verification due by September 28, 2025.
4. On an unknown date, the petitioner submitted a copy of her paystubs which included information regarding the stipend she received from her employer.
5. The petitioner was working as a traveling certified nursing assistant (CNA) where she traveled significant distances to provide care to patients. She was paid \$12 per hour and received a stipend of \$600 per week to cover her travel expenses. The stipend was broken down as \$469 to cover the costs of her hotel and lodging expenses and \$131 to cover the cost of her meals while traveling.
6. On September 28, 2025, the agency determined that the petitioner's stipend was countable income; therefore, with \$4,482 in countable monthly income, she was over the income limit for a household of two people and she was denied eligibility for FoodShare benefits.

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)* §§ 4.3 and 4.6.

In determining the amount of FS to be issued each month, the county must budget all of the recipient's nonexempt income. 7 C.F.R. §273.9(b). From that income, certain deductions are allowed. The deductions include a standard deduction, which was \$204 per month for a household of one person in September 2025. 7 C.F.R. §273.9(d)(1); *FoodShare Wisconsin Policy Handbook (FS Handbook)*, §4.6.2. See also DMS Operations Memo 24-18. Another deduction is the earned income deduction, which equals 20% of the household's total earned income. 7 C.F.R. §273.9(d)(2); *FS Handbook* § 4.6.3. A third possible deduction is for medical expenses exceeding \$35 in a month for elder or disabled persons. 7 C.F.R. §273.9(d)(3); *FS Handbook* §4.6.4. A fourth deduction is for child/dependent care. 7 C.F.R. §273.9(d)(4); *FS Handbook* §4.6.6. The final deduction is for shelter expenses; the deduction is equal to the excess expense above 50% of net income remaining after other deductions. 7 C.F.R. §273.9(d)(6); *FS Handbook* §4.6.7. The maximum shelter deduction is \$712 unless the household includes an elder or disabled individual; in those cases there is no shelter cap. *FS Handbook* §4.6.7.1 and App. 8.1.3.

In this case, the petitioner was working as a traveling certified nursing assistant through an agency. She applied for FoodShare benefits on August 29, 2025, and subsequently completed the FS interview and provided copies of her paystubs from employment. The agency worker processing her verification documents saw that she was receiving a \$600 per week stipend from her employment in addition to her hourly wage of \$12 per hour. When asked for additional information regarding the stipend, the petitioner provided a statement on the agency's letterhead that the stipend was broken down to \$469 as the housing

stipend and \$131 as the food stipend. (Agency Exhibit A) The agency processed the application and counted the \$600 weekly stipend as gross income pursuant to the *FS Handbook* §4.3.4.2.

4.3.4.2 Counted Unearned Income

Reimbursements for normal household living expenses such as rent, mortgage, personal clothing, and food eaten at home. These are counted because they are a gain or benefit. Include stipends that are part of a financial aid package and are intended as a reimbursement for living expenses.

FS Handbook §4.3.4.2(21). The agency determined that the petitioner's gross monthly income of \$4,482 placed her over the FoodShare income limit for a household of two people, and a denial was issued on September 28, 2025.

At the hearing, the petitioner testified that she was employed as a traveling CNA and commonly traveled an hour and a half to work sites. She explained that the stipend that she received was for reimbursement of hotel expenses and meal costs while she was traveling for work. The petitioner further testified that the amount of the stipend was a set amount based on how many hours she worked per week with the agency.

On or about October 2025, the petitioner's contract with the agency changed from working 40 hours per week to working on an "as needed" basis. This caused the amount of her stipend to change as well. This same month, the petitioner's hourly rate changed from \$12.00 to \$7.25 per hour.

The petitioner's testimony at the hearing was that the stipend was intended to pay for the costs of her housing and food expenses while she was traveling for work. This means that the *FS Handbook* §4.3.4.2(21) is not applicable as the stipend was not intended to cover her living expenses at home.

The *FoodShare Handbook* §4.5.3 states that reimbursements for expenses other than normal household living expenses are disregarded as income.

4.5.3 Reimbursement

Disregard a reimbursement for an identified expense, other than normal household living expenses, that is used for the purpose intended. Assume a reimbursement does not exceed an actual expense unless the provider or food unit says the amount is excessive. If the amount exceeds the actual expense, count the excess as income.

FoodShare Handbook §4.5.3. Therefore, stipends the petitioner received as reimbursement for hotel and meals while traveling for work should be disregarded from income for FoodShare eligibility purposes. Moreover, the *FoodShare Handbook* § 4.3.2.2 indicates that reimbursements for job-related expenses including travel and per diem allowances should be disregarded from income.

4.3.2.2 Disregarded Earned Income

Disregard means "do not count." When you are calculating the total amount of income a person has received, you should **exempt or exclude** any of the following kinds of income:

(4) **Reimbursements or flat allowances for job or training-related expenses.** Expenses may be for **travel, daily allowance**, dependent care, uniforms, and transportation to and from a job or training site, including travel expenses of migrant workers.

(Emphasis added.) *FS Handbook* § 4.3.2.2.(4).

The weekly stipends the petitioner received for meals and housing while traveling for her employment should be disregarded as income for purposes of FoodShare benefits. Therefore, this case is being remanded to the agency to redetermine the petitioner's eligibility for FoodShare benefits back to the date of her application.

CONCLUSIONS OF LAW

The stipends the petitioner received from her employer were a reimbursement for food and lodging expenses incurred while traveling for her employment; therefore, they are disregarded as income for the FoodShare program.

THEREFORE, it is

ORDERED

This case is Remanded to the agency with instructions to recalculate the petitioner's eligibility for FoodShare benefits back to August 29, 2025, and to disregard the amount of the housing and food stipends that the petitioner received on her paychecks from her employer. The agency shall do this within 10 days of the date of this decision.

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.

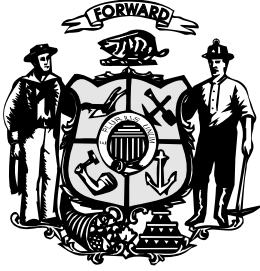
APPEAL TO COURT

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 22nd day of January, 2026

\s _____
Kate J. Schilling
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 January 22, 2026.

Washburn County Department of Social Services
Division of Health Care Access and Accountability