



FH  
[REDACTED]

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

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In the Matter of

[REDACTED]  
[REDACTED]  
[REDACTED]

**DECISION**  
Case #: FOO - 221059

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**PRELIMINARY RECITALS**

Pursuant to a petition filed on December 4, 2025, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Marathon County Department of Social Services regarding FoodShare benefits (FS), a hearing was held on January 2, 2026, by telephone.

The issue for determination is whether the agency erred in its 11/19/25 denial of the petitioner's FS application.

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: A. Meyer

Marathon County Department of Social Services  
400 E. Thomas Street  
Wausau, WI 54403

**ADMINISTRATIVE LAW JUDGE:**

John Tedesco  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Marathon County.
2. Petitioner is sole proprietor of a construction enterprise named [REDACTED].

3. Petitioner applied for FS on 11/18/25 for a household of two adults and three children. Petitioner explained that the application was the result of a significant change to income from self-employment – specifically, an unexpected slowdown in business.
4. The agency requested income reports from September and October 2025 as well as a projection for November 2025.
5. The agency determined that the report of a significant change was not founded and that the variations in income were regular fluctuations for a business. The agency used the petitioner’s 2024 tax return to determine eligibility.
6. Petitioner’s business claimed a \$196,536 profit on its 2024 tax return.
7. On 11/19/25 the agency issued a notice informing petitioner that the FS application was denied.
8. Petitioner appealed.

### DISCUSSION

In general, “eligibility and benefit calculations for [FS] are based on prospectively budgeted monthly income using estimated amounts.” *FoodShare Wisconsin Handbook (FS HB)* §4.1.1. In order to estimate future earned income, the agency usually looks at the income an individual has earned in the past 30 days. However, where an individual is self-employed, FS program policy instructs agencies generally to take a monthly average of the prior year’s annual income. *Id.* at 4.3.3.5. That figure is then, in effect, used as a predictor of future monthly income. However, agencies are instructed to use “anticipated earnings” when there is a significant change such that past circumstances no longer reflect the present. See *Id.* at 4.3.3.7. The treatment of such income is set forth in the FoodShare Wisconsin Handbook:

#### *4.3.3.7 Anticipating Earnings*

*Calculate self-employment income based on anticipated earnings when:*

1. *The business was not in operation for at least one full month in the prior tax year;*
2. *The business has not been in operation for six or more months at the time of the application; or*
3. *Past circumstances do not represent the present.*

*Examples of a significant change in circumstances include, but are not limited to:*

1. *The start of a business.*
2. *The owner sold a part or all of their business.*
3. *The owner is ill or injured and will be unable to operate the business.*
4. *There's a substantial cost increase causing less profit for each unit sold.*
5. *Sales are consistently below previous levels beyond normal sales fluctuations.*
6. *The business is consistently earning above previous levels beyond normal fluctuations.*

*Changes are effective according to the normal prospective budgeting cycle. The date of an income change is the date the IM worker agrees a*

*significant change occurred. The IM worker must judge whether the person's report was timely to decide any over or underpayment.*

*Self-employment income, by its very nature is somewhat uncertain. Use of SEIRFs and/or IRS forms to determine monthly average income takes this into consideration.*

FS Wisconsin Handbook at Section 4.3.3.7. Here, the petitioner has appealed because petitioner believes that the agency should have determined eligibility based on his own projections of his anticipated earnings rather than the historic financial records, including the 2024 tax return, of his business. Petitioner argued at hearing that circumstances have changed so much, and that business has diminished in such a significant way, that this unexpected result makes using the 2024 taxes inappropriate.

The agency argued at hearing that any reduction petitioner’s business is now experiencing is the result of normal fluctuations seen in business. The agency explained that petitioner has not established that any downturn was unforeseeable of out of the ordinary ebb and flow of a business enterprise. The agency also provided credible evidence supporting its claim that petitioner has, over the past years, repeatedly relied on claims of “significant change” in order to qualify for benefits at various times. The agency noted that a significant change was reported by petitioner in March 2021 which resulted in the agency allowing the use of self-employment report forms rather than business tax returns. The agency also explained that petitioner claimed a significant change at his January 2022 renewal for FS. Again, in March 2023 petitioner applied for FS and claimed a significant change in business income stating that a slowdown in business was outside the norm. The agency allowed petitioner to use self-employment report forms rather than the business’ tax return from the prior year. Petitioner attempted to renew FS in August 2023 and again stated that there was a significant change in income. Finally, when petitioner renewed health care enrollment in April 2025 he claimed that due to a slowdown his 2024 taxes were not reflective of the business’ income.

Based on all of this, I have no reason to find petitioner’s claim of a business slowdown credible. The agency did not err. Instead, I cannot understand how it took the agency so long to determine that petitioner is apparently working the public benefit system to his benefit by not having the agency rely on certified tax returns. My impression is that petitioner believes he found a loophole and is seeking to use it when it suits him. The fact that there have been so many claims of significant change over the past few years only underscores the fact that income changes, if they actually exist, are merely party of the ebb and flow of business and should be expected and planned for by petitioner.

I suggest that the agency look very carefully at petitioner’s financial eligibility when such is revisited in other public benefit programs or in future applications.

**CONCLUSIONS OF LAW**

The agency did not err in its use of actual 2024 tax return documents in determining petitioner’s FS eligibility.

**THEREFORE, it is** **ORDERED**

That this 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, 4822 Madison Yards Way, 5<sup>th</sup> 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.

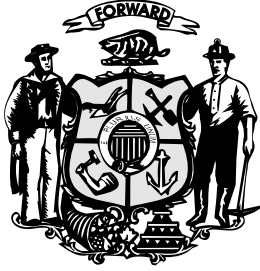
### **APPEAL TO COURT**

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 27th day of January, 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 January 27, 2026.

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