



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION
Case #: FOO - 221105

PRELIMINARY RECITALS

Pursuant to a petition filed on December 11, 2025, under Wis. Admin. Code § HA 3.03(1), to review a decision by the St. Croix County Health & Human Services regarding FoodShare benefits (FS), a hearing was held on January 6, 2026, by telephone.

The issue for determination is whether the agency correctly included petitioner and her 18 year-old son in the same FS household when determining eligibility.

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: Amanda Bohatta

St. Croix County Health & Human Services
1752 Dorset Lane
New Richmond, WI 54017-1063

ADMINISTRATIVE LAW JUDGE:

Jason M. Grace
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Eau Claire County.
2. Petitioner lives with her 18 year-old son. She is the son's guardian of estate. The son receives social security income.
3. Petitioner applied for FS. The agency included petitioner and her son in the same FS household when determining eligibility.
4. Petitioner filed an appeal with the Division of Hearings and Appeals contesting the agency's inclusion of her son in her FS household.

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)*.

At issue in this case is whether petitioner and her 18 year-old son are included in the same FS household when determining eligibility. The federal FS regulations provide the following:

§ 273.1 Household concept.

...

(b) *Special household requirements -*

(1) *Required household combinations.* The following individuals who live with others must be considered as customarily purchasing food and preparing meals with the others, even if they do not do so, and thus must be included in the same household, unless otherwise specified.

...

(ii) A [person](#) under 22 years of age who is living with his or her natural or adoptive parent(s) or step-parent(s); ...

7 CFR 273.1. Consistent with this regulation, Wisconsin FS policy is as follows:

3.3.1.3 Relationship Rules

The following individuals must be included in the same food unit if they live together, even if they do not purchase and prepare meals together:

1. Spouses
2. *Biological (unless no longer a parent because of adoption), adoptive, or stepparents and their children under the age of 22*
3. Adults and minor children under the age of 18 years over whom they are exercising parental control

...

FS Handbook, § 3.3.1.3 (*emphasis added*).

Based on the foregoing, the agency correctly included petitioner and her son in the same FS household when determining eligibility. This is because petitioner's son is under the age of 22 and they are living together. There is no relevant exception in either the federal or state FS regulations to this rule, including in cases where the adult child is disabled. Petitioner has access to her son's income and is authorized to use it to cover his expenses, which include food expenses. The income is available to the food unit and must be budgeted when determining eligibility. See FS Handbook, §§ 4.1.1, 4.3.1, and 4.3.4.1.

While petitioner may find this result unfair, I lack the authority to base any decision on notions of fairness or equity. It is the longstanding policy of the DHA that its administrative law judges do not possess equitable powers. See, *Wisconsin Socialist Workers 1976 Campaign Committee v. McCann*, 433 F.Supp 540, 545 (E.D. Wis.1977). See also, *Village of Silver Lake, Wis. v. DOR*, 87 Wis. 2d 463 (Wis. App. 1978). DHA must limit its decisions to the law as set forth in statutes, regulations, and administrative code provisions. Based on the record before me, the agency correctly complied with federal and state policy in including petitioner and her 18 year-old son in the same FS household when determining eligibility.

CONCLUSIONS OF LAW

The agency correctly included petitioner and her son in the same FS household when determining eligibility as they live together and the son is under the age of 22.

THEREFORE, it is

ORDERED

That 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, 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.

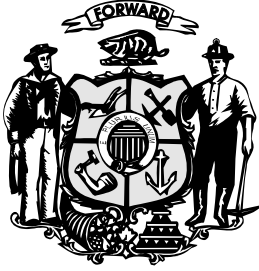
APPEAL TO COURT

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 8th day of January, 2026

\s _____
Jason M. Grace
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
5th Floor North
4822 Madison Yards Way
Madison, WI 53705-5400

Telephone: (608) 266-7709
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on January 8, 2026.

St. Croix County Health & Human Services
Division of Health Care Access and Accountability