



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/169637

PRELIMINARY RECITALS

Pursuant to a petition filed October 22, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Racine County Department of Human Services in regard to FoodShare benefits (FS), a telephonic hearing was held on January 26, 2016. The matter was rescheduled twice prior to the hearing on January 26, 2016.

The issue for determination is whether the agency correctly determined petitioner’s FS effective September 1, 2015.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



Respondent:

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

By: Rhonda Kramer, Lead ESS
Racine County Department of Human Services
1717 Taylor Ave
Racine, WI 53403-2497

ADMINISTRATIVE LAW JUDGE:

Kelly Cochrane
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ) is a resident of Racine County and has been receiving FS as a household of one.

2. On July 25, 2015 the agency received an alert through the SSI Data Exchange that petitioner was going to begin receiving \$83.78 in State SSI and \$364 in Federal SSI. The agency entered the new income into petitioner's FS budget. Petitioner also receives \$389 monthly in Social Security retirement benefits.
3. Petitioner pays \$107 in rent, and pays for a phone utility.
4. On July 27, 2015 the agency issued a notice to petitioner stating that effective September 1, 2015 her FS would decrease to \$16 per month due to the increase in her income.

DISCUSSION

FS benefits are calculated pursuant to 7 C.F.R. §273.9. The maximum FS allotment amounts, based on household size, are listed at *FoodShare Wisconsin Handbook*, §8.1.2. The *FS Handbook* can be viewed online at <http://www.emhandbooks.wisconsin.gov/fsh/fsh.htm>.

In calculating the petitioner's allotment, the agency must follow the procedure set by the federal FS regulations, which is restated in the *FS Handbook*. In determining the amount of FS to be issued each month, the agency must budget all income of the FS household, including all earned and unearned income. 7 C.F.R. § 273.9(b). From the gross household income, the following permissible deductions as discussed in the *FoodShare Handbook*, §4.6.1 are allowed: a standard deduction, an earned income deduction, a medical expenses deduction, a child support payment deduction, a dependent care expense deduction, and a shelter expense deduction. Some FS groups are not allowed a deduction for some expenses and some expenses are not always deducted in full. Petitioner received the standard deduction and the shelter expense deduction. See Exhibit 3 (FS budget for September).

Petitioner's concern at hearing was the decrease in FS to \$16 as it was insufficient to meet her needs. She cited other expenses (phone, clothing, furniture) as preventing her from being able to afford food. However, the only allowable deductions are those set forth under the federal law. See 7 CFR §273.9(d). I do not have equitable powers and cannot deviate from what law and policy dictate. See Oneida County v. Converse, 180 Wis.2nd 120, 125, 508 N.W.2d 416 (1993). In other words, I cannot change the outcome here because it petitioner thinks it would be fair.

The agency presented the budget screens to show how it determined petitioner's FS. I have reviewed the information and find no errors in the computations. Petitioner did not provide any evidence to show those calculations were incorrect. Petitioner provided an unsolicited post-hearing document showing that per form SSA-1099 she received \$4668 in Social Security benefits in 2015. This serves to support only that she received the \$389 monthly in Social Security retirement benefits. She did not dispute that she began receiving the additional SSI income as budgeted by the agency.

I remind the petitioner that if her income decreases, has excess medical expenses that qualify for a deduction, or has other changes to her household, she must report and verify that to the agency so her FS can be redetermined.

CONCLUSIONS OF LAW

The agency correctly calculated petitioner's FS effective August 1, 2015.

THEREFORE, it is

ORDERED

The petition for review 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, Madison, Wisconsin 53703, **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 Milwaukee,
Wisconsin, this 2nd day of February, 2016

\sKelly Cochrane
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 2, 2016.

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