



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/169966

PRELIMINARY RECITALS

Pursuant to a petition filed November 09, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on December 17, 2015, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly discontinued the Petitioner's FS benefits effective October 1, 2015 and whether the agency properly determined the Petitioner's FS benefits for the period of October 9 -31, 2015 and effective November 1, 2015.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

||

Respondent:

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

By: Pang Thao Xiong
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

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

2. On September 18, 2015, the agency issued a notice to the Petitioner that FS benefits would end effective October 1, 2015 for failure to complete a FS renewal and for income exceeding the program limit.
3. On October 9, 2015, the Petitioner contacted the agency regarding FS benefits. She was informed that a renewal had not been completed. Petitioner reported a household size of four, reported that Petitioner's spouse is working, reported mortgage and taxes. The case was pended for signature, and earned income verification.
4. On October 12, 2015, the agency issued a Notice of Proof Needed to the Petitioner requesting verification of employment and income at [REDACTED]. The due date for the information was October 22, 2015.
5. On October 22, 2015, the agency received verification from Petitioner's spouse's employer, [REDACTED]. The verification reported that Petitioner's spouse works 36 hours one week, 48 hours the next week @ \$13.29/hour with 8 hours of overtime every other week @ \$19.94/hour. The Petitioner provided pay statements for the pay period ending August 1 and August 15, 2015.
6. On October 23, 2015, the agency issued a Notice of Decision to the Petitioner informing her that her application for FS benefits dated October 9, 2015 was denied due to household income exceeding the program limit. The agency calculated household income of \$2,571.66/month based on Petitioner's husband's earned income.
7. On November 9, 2015, the Petitioner filed an appeal with the Division of Hearings and Appeals.
8. On or about November 11, 2015, the agency reviewed the Petitioner's case and determined it had incorrectly calculated the Petitioner's gross household income. The agency re-calculated income and determined the Petitioner to be eligible for \$20 in FS benefits for the period of October 9 – 31, 2015 and \$28/month effective November 1, 2015.

DISCUSSION

The gross income limit for a household of four to be eligible for FS benefits is \$3,976/month. The Petitioner's gross monthly household income is under the gross income limit. However, a household must also meet the net income limit test to be eligible for benefits.

In determining a household's eligibility for benefits based on the net income limit, the agency must budget all of the recipient's nonexempt income, including earned and unearned income. 7 C.F.R. §273.9(b). From that income, certain deductions are allowed. The deductions include a standard deduction, which currently is \$165our per month for a -person household. 7 C.F.R. §273.9(d)(1); FoodShare Handbook (FSH), § 4.6.2. 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); FSH, § 4.6.3. A third possible deduction is for medical expenses exceeding \$35 in a month for elderly or disabled persons. 7 C.F.R. §273.9(d)(3); FSH, § 4.6.4. A fourth deduction is for child/dependent care. 7 C.F.R. §273.9(d)(4); FSH, § 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)(5); FSH, § 4.6.7.

In this case, the Petitioner disputed the agency's calculation of the Petitioner's spouse's earned income. At the hearing, the agency conceded that it had misinterpreted the employer verification dated October 22, 2015 with regard to the hours worked by the Petitioner's husband. The agency re-calculated the hours based on Petitioner's pay statements to reflect that the Petitioner's husband works 76 hours/pay period @ \$13.29 and 8 hours overtime/pay period @ \$19.94 for total gross monthly earned income of \$2,514.55. Based on this calculation of income and shelter expenses of \$717.99/month, the agency determined the Petitioner is entitled to \$28/month effective November 1, 2015 and \$20 of pro-rated benefits for the period of October 9 – 31, 2015.

At the hearing, the Petitioner's husband testified that the Petitioner is unable to work and has a disability application pending. He noted that because the Petitioner is unable to work, they have fallen behind in bills. He asked that this be considered with regard to FS benefits. The Petitioner requests equitable relief that an administrative law judge is not authorized to provide. I reviewed the agency's calculation of FS benefits and determination to approve benefits effective October 9, 2015. I conclude the agency properly discontinued benefits effective October 1, 2015 when the Petitioner had not completed her renewal. The agency properly determined that the Petitioner's benefits could re-open effective October 9, 2015 when the agency received requested verifications by the end of the month. See FS Handbook, § 2.2.1.4. I reviewed the FS budget screen for November 1, 2015 and find no error in the agency's calculation of \$28/month FS allotment for the Petitioner's household.

CONCLUSIONS OF LAW

The agency properly discontinued Petitioner's FS benefits effective October 1, 2015 for failure to complete a FS renewal. The agency properly determined that the Petitioner is eligible for \$20 in FS benefits for the period of October 9 – 31, 2015 and \$28/month effective November 1, 2015.

THEREFORE, it is

ORDERED

That the 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, 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.

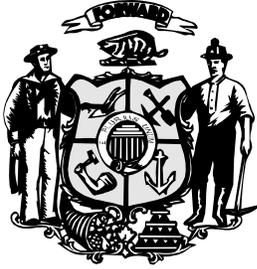
APPEAL TO COURT

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 19th day of January, 2016

\sDebra Bursinger
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

Brian Hayes, Administrator
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
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 19, 2016.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability