



STATE OF WISCONSIN  
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/170974

PRELIMINARY RECITALS

Pursuant to a petition filed December 25, 2015, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Adams County Health and Human Services in regard to FoodShare benefits (FS), a hearing was held on January 19, 2016, at Madison, Wisconsin.

The issue for determination is whether the agency erred in its reduction of the FS allotment from \$194 to \$25.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:



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Respondent:

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

By:   
Adams County Health and Human Services  
108 E North Street  
Friendship, WI 53934-9443

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco  
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # ) is a resident of Dane County.
2. Petitioner had been receiving \$194 in FS.
3. In December 2015, petitioner underwent a review of his FS eligibility. At that time the worker realized that a previous error had been made by the agency in that the agency had counted net SS

income of petitioner rather than gross. Petitioner's gross SS unearned income was actually \$354 higher than budgeted due to this amount being deducted from his SS payment for his Medicare Part B premium.

4. The agency corrected the error and this resulted in petitioner's increased counted gross income and a lower FS allotment.

### DISCUSSION

The county agency corrected its error by counting petitioner's **gross** Social Security income, prior to the deductions for Medicare premiums. This is mandated by the applicable federal law and state policy. See *FoodShare Wisconsin Handbook* at § 4.3.4.2(5). Essentially it is the same as if an individual received a gross income from his or her employer, and then the employer deducted health insurance expenses. The gross income figure is still required to be utilized. While petitioner may think this to be unfair, state administrative law judges do not have the authority to decide cases based upon fairness. We must apply the law as written. I have reviewed the record including the before and after budget screens in the record and I find no error.

### CONCLUSIONS OF LAW

The reduction in FS was correct as it resulted from a corrected agency error.

**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, 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 Madison,  
Wisconsin, this 25th day of January, 2016

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\sJohn P. 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 25, 2016.

Adams County Health and Human Services  
Division of Health Care Access and Accountability