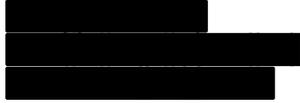




STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/171348

PRELIMINARY RECITALS

Pursuant to a petition filed January 13, 2016, 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 February 10, 2016, at Milwaukee, Wisconsin.

The issue for determination is whether the agency correctly reduced the petitioner’s monthly FS benefits from \$331 to \$16 effective February 1, 2016.

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: 
Milwaukee Enrollment Services
1220 W Vliet St, Room 106
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Corinne Balter
Division of Hearings and Appeals

FINDINGS OF FACT

1. The petitioner (CARES # ) is a resident of Milwaukee County. He and his child are the only two people in the petitioner’s household.
2. Prior to February 1, 2016 the petitioner was receiving \$331 in monthly FoodShare (FS) benefits.

3. On January 9, 2016 the agency received a system generated update stating that the petitioner was receiving unemployment benefits.
4. The agency updated the petitioner's case with his unemployment benefits. This additional income caused the petitioner's monthly FS benefits to decrease from \$331 to \$16.
5. On January 11, 2016 the agency mailed the petitioner a notice stating that his monthly FS benefits would decrease from \$331 to \$16 effective February 1, 2016.
6. On January 13, 2016 the Division of Hearings and Appeals received the petitioner's Request for Fair Hearing.
7. Effective February 1, 2016 the petitioner's gross monthly income is \$1,953.60 consisting of \$1,255.60 in unemployment benefits and \$698 from social security survivorship benefits. His monthly rent is \$400. He has dependent care expenses totaling \$200 a month. He is also responsible for a telephone payment. The remaining utilities are included in his rent.

DISCUSSION

In calculating the petitioner's FS allotment, the agency must follow a procedure prescribed by the federal FS regulations, and echoed in the Department's *FS Wisconsin Handbook*. The federal rule requires the county to start with gross income, deducting a limited number of identified deductions from that income to calculate the adjusted income. *FSWH*, 1.1.4. The regulations direct that a Standard Deduction be subtracted from income in all FS cases. 7 C.F.R. §273.9(d)(1). The Standard Deduction for a household size of 2 is \$155, per *FS Wisconsin Handbook*, 8.1.3. There are additional deductions including earned income deduction, excess medical and dependent care. 7 C.F.R. §273.9(d)(3). An Excess Shelter Deduction can be subtracted if allowable shelter expenses exceed half of the adjusted income. 7 C.F.R. §273.9(d)(6)(ii).

I reviewed the agency's calculations in this case, and the calculations are correct. The petitioner does not dispute that he began receiving unemployment benefits in January 2016. Rather, he argues that \$16 is not enough FS benefits given his loss of employment. I have no doubt that the petitioner is struggling financially after he lost his job. Nonetheless, the agency must use the calculations dictated in the federal FS regulations. Under these regulations, the petitioner, despite his financial situation, is only eligible for \$16 in monthly FS benefits.

CONCLUSIONS OF LAW

The agency correctly reduced the petitioner's monthly FS benefits from \$331 to \$16 effective February 1, 2016.

THEREFORE, it is

ORDERED

That the petition 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 3rd day of March, 2016

\sCorinne Balter
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 March 3, 2016.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability