



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of



DECISION

FOO/171422

PRELIMINARY RECITALS

Pursuant to a petition filed January 15, 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 11, 2016, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly reduced the Petitioner's FS benefits effective December 1, 2015 and 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: [Redacted]
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 October 30, 2015, the Petitioner applied for medicare premium assistance and was approved.

3. Prior to November 1, 2015, the agency improperly calculated Petitioner's FS benefits based on monthly rent expense of \$217. Petitioner's rent expense has been \$204.75/month since July, 2014.
4. On November 2, 2015, the agency issued a Notice of Decision to the Petitioner informing her that her FS benefits would decrease from \$102/month to \$98/month effective December 1, 2015. This was based on Social Security income of \$664/month, a medicare premium of \$104.90 (excess medical expense) and rent of \$204.75/month.
5. On January 11, 2016, the agency issued a Notice of Decision to the Petitioner informing her that her FS benefits would decrease from \$98/month to \$67/month effective February 1, 2016. This was based on social security income of \$769/month and rent of \$204.75/month.
6. Petitioner pays an electric bill and phone bill each month.
7. On January 15, 2015, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

In determining the amount of FS to be issued each month, 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 \$155 per month for a one-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.

At the hearing, the Petitioner testified that her rent expense has been \$204.75/month since July, 2014. Prior to November 1, 2015, the agency was improperly calculating her benefits based on a rent expense of \$217/month. When the agency corrected this error, the Petitioner's FS benefits decreased because of her reduced rent expense. I reviewed the budget screen for December 1, 2015 and can find no error in the agency's determination that her benefits should be \$98/month based on gross income of \$769, a standard deduction, an excess medical deduction for the medicare premium and a shelter deduction (including rent of \$204.75 and a utility standard of \$293 for electric and phone).

Effective February 1, 2015, the Petitioner's benefit calculation changed again when the agency considered the Petitioner's medicare premium assistance. Because the Petitioner no longer had an excess medical expense deduction, her FS benefits decreased again. I reviewed the budget screen for February 1, 2016 and can find no error in the agency's determination that her benefits should be \$67/month based on gross income of \$769, a standard deduction and a shelter deduction.

CONCLUSIONS OF LAW

The agency properly reduced the Petitioner's FS benefits effective December 1, 2015 and January 1, 2016.

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 3rd day of March, 2016

\sDebra Bursinger
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