



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

FOO/142748

PRELIMINARY RECITALS

Pursuant to a petition filed July 30, 2012, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Oconto County Department of Health And Human Services in regard to FoodShare benefits (FS), a telephonic hearing was held on August 27, 2012, at Oconto, Wisconsin.

The issue for determination is whether the county agency correctly calculated and reduced the petitioner's FoodShare (FS) benefits from \$126 to \$16 effective July 1, 2012, due to an increase in petitioner's earned income due to new employment.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

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

By: Janet Stodola, ESS

Oconto County Department of Health And Human Services
501 Park Avenue
Oconto, WI 54153-1612

ADMINISTRATIVE LAW JUDGE:

Gary M. Wolkstein
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Oconto County who resides in a household of one.
2. The petitioner's receives FoodShare (FS) benefits for a household of one.

3. The petitioner participated in an in-person FS application interview at the county agency on June 27, 2012 as part of his re-application for FS benefits.
4. The petitioner had several part-time jobs through a temp agency.
5. As of June 22, 2012, petitioner began new employment as a general laborer at [REDACTED]. He was employed for 40 hours per week at \$9.00 per hour. See Exhibit 3.
6. The county agency sent a July 17, 2012 Notice of Decision to the petitioner stating that his FS benefits would be reduced to \$16 effective July 1, 2012, due to an increase in his earned income as a result of new employment at ABR. See Exhibit 2.

DISCUSSION

In determining the amount of FS to be issued each month, the county 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, certain deductions as discussed in the *FoodShare Wisconsin Handbook*, §4.6 are allowed: (1) standard deduction - which currently is \$134 per month for all households. 7 C.F.R. §273.9(d) (1); (2) earned income deduction - which equals 20% of the household's total earned income. 7 C.F.R. §273.9(d) (2); (3) medical expense deduction - for medical expenses exceeding \$35 in a month for an elderly or disabled person. 7 C.F.R. §273.9(d) (3); (4) dependent care deduction for child care expenses. 7 C.F.R. §273.9(d) (4); and (5) shelter expenses deduction - 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). The maximum FS allotment amounts, based on household size, are listed at *FoodShare Wisconsin Handbook*, §8.1.7. The *FS Handbook* can be viewed online at <http://www.emhandbooks.wi.gov/fsh/>.

During the August 27, 2012 hearing, the county agency representative, ESS Janet Stodola, provided petitioner a detailed explanation regarding the calculation of the July 1, 2012 reduction in his FS benefits based upon his new employment at ABR, and that the county is simply following FS law and policy. During that hearing, petitioner was unable to refute the county agency's case that it had correctly calculated the petitioner's income for a FS household of one based upon budgeting increased earned income from the [REDACTED] as of June 22, 2012. The petitioner alleged, without documentation, that his employment at ABR ended some time during August, 2012. However, the issue in the instant case for the petitioner July 30, 2012 appeal was whether the county correctly calculated his FS benefits as of July 1, 2012. The petitioner's future income reductions or increases are not relevant to the July 1, 2012 reduction in his FS benefits which is the issue in this appeal. In reviewing the county agency's calculation of petitioner's FS benefits based upon FS policy and law, I find no error. Accordingly, for the above reasons, I must conclude that the county agency correctly calculated and reduced the petitioner's FoodShare (FS) benefits from \$126 to \$16 effective July 1, 2012, due to an increase in petitioner's earned income due to new employment.

CONCLUSIONS OF LAW

The county agency correctly calculated and reduced the petitioner's FoodShare (FS) benefits from \$126 to \$16 effective July 1, 2012, due to an increase in petitioner's earned income due to new employment.

THEREFORE, it is

ORDERED

The petition for review herein be and the same is hereby Dismissed.

REQUEST FOR A REHEARING

This is a final administrative decision. If you think this decision is based on a serious mistake in the facts or the law, you may request a rehearing. You may also ask for a rehearing if you have found new evidence which would change the decision. Your request must explain what mistake the Administrative Law Judge made and why it is important or you must describe your new evidence and tell why you did not have it at your first hearing. If you do not explain these things, your request will have to be denied.

To ask for a rehearing, send a written request to the Division of Hearings and Appeals, P.O. Box 7875, Madison, WI 53707-7875. Send a copy of your request to the other people named in this decision as "PARTIES IN INTEREST." Your request for a rehearing must be received no later than 20 days after the date of the decision. Late requests cannot be granted.

The process for asking for a rehearing is in Wis. Stat. § 227.49. A copy of the statutes can be found 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 appropriate court no more than 30 days after the date of this hearing decision (or 30 days after a denial of rehearing, if you ask for one).

For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson Street, Room 651, Madison, Wisconsin 53703. A copy should also be sent to the Division of Hearings and Appeals, 5005 University Avenue, Suite 201, Madison, WI 53705-5400.

The appeal must also be served on the other "PARTIES IN INTEREST" named in this decision. The process for appeals to the Circuit Court is in Wis. Stat. §§ 227.52 and 227.53.

Given under my hand at the City of Madison,
Wisconsin, this 3rd day of October, 2012

Gary M. Wolkstein
Administrative Law Judge
Division of Hearings and Appeals

c: Oconto County Department of Health And Human Services - email
Department of Health Services - email



State of Wisconsin \DIVISION OF HEARINGS AND APPEALS

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The preceding decision was sent to the following parties on October 3, 2012.

Oconto County Department of Health And Human Services
Division of Health Care Access and Accountability