



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

FOO/142956

PRELIMINARY RECITALS

Pursuant to a petition filed August 8, 2012, 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 September 12, 2012, by telephone.

The issue for determination is whether the county determined petitioner's income correctly.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

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

By: Pamela Hazley
Milwaukee Enrollment Services
1220 W. Vliet St.
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner applied for FS on June 6, 2012. She provided income verification.
3. The agency incorrectly budgeted petitioner's bi-weekly earned income as weekly income. As a result her income was doubled in the FS calculation.
4. The county determined that petitioner was eligible for \$128 FS for the period June 6-30, 2012, and \$154 monthly thereafter. Petitioner was informed by a notice dated June 13, 2012.

DISCUSSION

FS allotments are based upon a household's prospective income, meaning that the agency must estimate the household's income for the month in which FS are to be received. FS Handbook, Appendix 4.1.1. Income from the past 30 days typically is used to make the estimate, but if a job is new the agency will use the employer's statement of estimated earnings.

After the hearing I reviewed the evidence, and it is clear to me that the worker who processed petitioner's application accidentally doubled her earned income. Based upon the figures provided by the employer, income would be approximately \$370 *bi-weekly*, but the worker put that amount down as the weekly amount, thus inflating bi-weekly income to \$741.45. In fact, from petitioner's pay stubs we can see now that she has averaged \$433.26 bi-weekly.

I will order the agency to re-calculate FS for petitioner retroactive to June 6, 2012, using \$433.26 as bi-weekly income.

CONCLUSIONS OF LAW

The agency erroneously calculated petitioner's earned income.

THEREFORE, it is

ORDERED

That the matter be remanded to the agency with instructions to re-determine petitioner's FS retroactive to June 6, 2012 by using \$433.26 as petitioner's bi-weekly earned income instead of the \$741.45 originally used. The agency shall take this action and issue appropriate supplemental FS within 10 days of this decision.

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 13th day of September, 2012

Brian C. Schneider
Administrative Law Judge
Division of Hearings and Appeals

c: Milwaukee Enrollment 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 September 13, 2012.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability