



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

FOO/143060

PRELIMINARY RECITALS

Pursuant to a petition filed August 13, 2012, under Wis. Admin. Code, §HA 3.03(1), to review a decision by the Milwaukee Enrollment Services to reduce FoodShare benefits (FS), a hearing was held on September 19, 2012, by telephone.

The issue for determination is whether the agency correctly reduced after petitioner reported a new job.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

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

By: Alma Lezama
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 had a review in July, 2012. He reported working for OHM Holding at \$9.50 per hour, 40 hours per week, for a gross income of \$1,520 per month. He also reported a new rent amount of \$400 monthly.
3. The agency reduced FS from \$200 to \$16 effective August 1, 2012.

DISCUSSION

In determining the amount of FS to be issued each month, the county must budget all of the recipient's nonexempt income. 7 C.F.R. §273.9(b). From that income, certain deductions are allowed. The deductions include a standard deduction, which currently is \$149 per month. 7 C.F.R. §273.9(d)(1); FS Handbook, Appendix 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); FS Handbook, App. 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); FS Handbook, App. 4.6.4. A fourth deduction is for child/dependent care. 7 C.F.R. §273.9(d)(4); FS Handbook, App. 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); FS Handbook, App. 4.6.7. The maximum shelter deduction is \$459 unless the household includes an elderly or disabled individual; in those cases there is no shelter cap. Handbook, App. 8.1.3. and 4.6.7.1.

I reviewed the agency's calculations following the report of the new job. Gross income was \$1,520. The earned income (\$304) and standard deductions (\$149) left \$1,067. There is no medical expense deduction because petitioner is not elderly or disabled. The shelter deduction is calculated by taking one-half of \$1,067 (\$533.50) and comparing it to petitioner's shelter expense of \$400 rent and \$442 utility allowance. That total is \$308.50 more than \$533.50, so the shelter deduction is \$308.50. \$1,067 minus \$308.50 is \$758.50. A single person with \$758.50 net income receives \$16 FS. Handbook, App. 8.1.2.

Whoever told petitioner that he would not have a reduction in FS unless his income rose above \$1,800 was simply wrong. Since the gross income limit is \$1,862, it is possible that the person meant to explain that he would remain eligible for FS unless his income rose that high, but if the person actually said there would be no FS reduction, the person erred.

Petitioner now has lost the job and has reported the change. FS should increase again for October.

Petitioner presented an ambulance bill that he received. As he is covered by BadgerCare Plus Core Plan Medical Assistance, the bill should be covered unless the trip was not an emergency. I suggest that petitioner contact the ambulance company and explain that he is covered by the Core Plan MA and ask that the bill be submitted. If the company says that MA denied the claim, petitioner can file a new appeal with this office contesting the denial of the payment.

CONCLUSIONS OF LAW

The agency correctly reduced FS to \$16 when petitioner reported a new job.

THEREFORE, it is ORDERED

That 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).

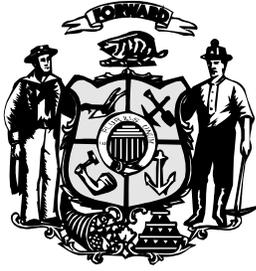
For purposes of appeal to circuit court, the Respondent in this matter is the Department of Health Services. After filing the appeal with the appropriate court, it must be served on the Secretary of that Department, either personally or by certified mail. The address of the Department is: 1 West Wilson 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 24th 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 24, 2012.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability