



FH
[REDACTED]

**STATE OF WISCONSIN
Division of Hearings and Appeals**

In the Matter of

[REDACTED]

DECISION

FOO/143076

PRELIMINARY RECITALS

Pursuant to a petition filed August 13, 2012, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Dane County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on October 9, 2012, at Madison, Wisconsin.

The issue for determination is whether the county agency correctly discontinued the petitioner's FS case effective June 30, 2012.

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: F. Banuelos, ES Spec.
Dane County Department of Human Services
1819 Aberg Avenue
Madison, WI 53704-6343

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Dane County. He is disabled.
2. [REDACTED] applied for and began receiving FS benefits in July 2011. Her minor child was added to the case in November 2011. The petitioner, who is the child's father and resides with them, was added to the FS case effective January 1, 2012.

3. As of June 2012, the household's income consisted of [REDACTED]'s \$169.78 SSI, [REDACTED]'s \$632 Social Security, the petitioner's \$908 Social Security, and the child's \$514 Social Security. The child's Social Security was a new addition to the household's income total.
4. Following appropriate notice, the agency discontinued the household's FS effective July 1, 2012. The basis for discontinuance was excess income.
5. The income amounts in Finding #3 total \$2,223.78. The expenses that can be all or partially deducted in the FS allotment calculation were identified as a \$99.90 medical insurance premium expense and a \$794 rent expense. The petitioner testified that he has intermittent unreimbursed medical expenses; however, neither the precise amount of those expenses nor their verification was submitted at hearing.

DISCUSSION

The petitioner questions the correctness of the calculation of his FS allotment amount for July, 2012, onward. The petitioner's gross income is not in dispute: the parties agreed that his household has the income identified in Finding #3. The budgeting calculations here were performed prospectively. Prospective budgeting should reflect what the petitioner is likely to receive, on average, each month. *FS Wisconsin Handbook (FSWH)*, 4.1.1, viewable online at www.emhandbooks.wisconsin.gov/fsh/.

In calculating the petitioner's July 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 that the county start with gross, rather than net, income, and allow only a limited number of identified deductions from that 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 case with one to three persons was set at \$147, per *FS Wisconsin Handbook*, 8.1.3. Twenty percent of any earned income is then subtracted as the Earned Income Deduction; that deduction was correctly not given here. A Dependent Care Deduction is also taken if he incurs day care expenses in order to go to work, an Excess Medical Expense Deduction is subtracted for an elderly or disabled person's allowable medical expenses that exceed \$35 per month, and child support paid out garners a deduction. There is no record of the dependent care or child support expenses here. 7 C.F.R. §273.9(d)(3). The agency did confirm that the petitioner has a \$99.90 insurance premium expense. An Excess Shelter Deduction can be subtracted from the income after deductions if allowable shelter expenses exceed half of that income. 7 C.F.R. §273.9(d)(6)(ii). Based on a \$794 shelter cost plus the \$444 heating utility standard, the petitioner's shelter costs totaled \$1,238. This exceeded half of the adjusted income (\$1005.94), by \$232.06, so the \$232.06 was deducted in the allotment calculation.

Thus, the July 2012, allotment calculation correctly looked like this:

Gross income	2223.78
Minus Earned Inc. Deduction	- 000.00
Minus Excess Medical	-064.90
Minus Dependent Care	-000.00
Minus Standard Deduction	<u>-147.00</u>
Adjusted Income	2011.88
Minus Shelter Deduction	<u>-232.06</u>
Net Income	1779.82

The correct allotment for three persons with net income of \$1,779.82 was zero from July through September, 2012. *FS Wisconsin Handbook*, 8.1.2, p. 16.

The petitioner testified that he has intermittent unreimbursed medical expenses, which are not incurred monthly. Such bills can be included in the Excess Medical deduction above, via averaging. Unfortunately, the petitioner did not bring the bills in question to hearing. He did request a meeting with agency personnel prior to hearing to discuss his medical bills, but unfortunately did not receive a meeting. Nonetheless, on the evidence before me, I have no basis for increasing the Excess Medical deduction for the month in question, which is July 2012. The petitioner's household may wish to file a new FS application, and indicate his unpaid medical bills at that time.

CONCLUSIONS OF LAW

1. The county agency correctly discontinued the petitioner's FS effective July 1, 2012, due to excess net income.

THEREFORE, it is

ORDERED

That the petition is 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 11th day of October, 2012

Nancy J. Gagnon
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 October 11, 2012.

Dane County Department of Human Services
Division of Health Care Access and Accountability