



STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

FOO/143077 & FOO/142914

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 petitioner consented to consolidation of a previously filed appeal, #142914, with this filing.

The issue for determination is whether the county agency correctly reduced the petitioner's FS to \$151 effective August 1, 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: Heather Lesch, ES Supr.

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.
2. The petitioner has had an ongoing FS case for her household of three persons throughout 2012. Prior to July 2012, the petitioner was a W2 (cash benefit) participant.

3. The petitioner began employment with [REDACTED] on Tuesday, July 3, 2012. At the time, her employer sent employment information to the Department which declared that the petitioner began on July 3, was earning \$7.75 hourly, and would be working 80 hours in a two-week pay period. See, Exhibit 1, CWW employment screen, and Exhibit 5A, EVFE for hourly pay.
4. To calculate August benefits, the agency budgeted monthly income of \$1,333 in earned income plus the petitioner's last W2 check of \$608, for a total income of \$1,941. After subtracting the 20% earned income deduction, the \$147 standard deduction, and a \$280.30 shelter deduction, net income of \$1,247.10 remained. This level of income resulted in an allotment of \$151 for August. Exhibits 2 (budget screen) & 3 (notice of 7/18/12).
5. The petitioner's FS increased to \$526 for September 2012, as she is now in "transitional FS" for five months.
6. The petitioner did not work 40 hours weekly in July 2012, because she was in training for only 15 hours weekly. However, she did begin working 40 hours weekly in August 2012.

DISCUSSION

The petitioner questions the correctness of the calculation of her FS allotment amount for August, 2012, only. 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/. For earned income that is received biweekly, the agency is directed to develop a biweekly average, and then multiply that figure by 2.15 to account for three-paycheck months. For weekly income, the multiplier is 4.3. 7 C.F.R. §273.10(c)(2).

The petitioner argues that she only worked 15 hours weekly in July, so only the earnings at the 15-hour per weekly level should have been budgeted for August. However, that is not how FS income is budgeted. If an agency reasonably expects that a person is going to receive pay for 40 hours weekly for the upcoming month (*prospectively*), the agency is supposed to budget the 40 hours of weekly pay for the upcoming month's FS. What the petitioner is arguing for is *retrospective* budgeting (looking backward), and that is not how FS allotments are calculated. The petitioner does not deny that she was either working 40 hours weekly for August, or expected to be working 40 hours weekly in August.

CONCLUSIONS OF LAW

1. The agency's prospective budgeting of the petitioner's earned income for August 2012 was correct.

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 12th 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 12, 2012.

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