



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

FOO/143478

PRELIMINARY RECITALS

Pursuant to a petition filed August 27, 2012, under Wis. Admin. Code, §HA 3.03(1), to review a decision by Brown County Human Services to deny FoodShare benefits (FS), a hearing was held on September 25, 2012, by telephone.

The issue for determination is whether petitioner's household income is over the FS limit.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

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

By: Lindsay Kraft
Brown County Human Services
111 N. Jefferson Street
Green Bay, WI 54301

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Brown County.
2. Petitioner resides with her husband. Both are elderly and disabled; they receive social security. Total household income is \$2,690.45 per month.
3. Petitioner applied for FS on August 15, 2012. By a notice dated August 16, 2012, the county denied FS because the household was over the limit.

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.

The gross income limit for a household of two was \$2,452 in August, 2012. Handbook, App. 8.1.1. The net income limit for a household of two was \$1,226. Handbook, App. 8.1.1.

Importantly for this case, Appendix 4.2.1.5 of the Handbook states as follows: "Households that include an elderly, blind or disabled member with gross income over 200% of the FPL must be tested for FS using the regular SNAP rules. Under the regular SNAP rules, these households have no gross income limit, but must have net income that does not exceed 100% FPL and countable assets that do not exceed \$3,250. "

Although petitioner and her husband have income more than 200% of the poverty limit, that is, the gross income limit, their eligibility must be reviewed against the net income limit because they are elderly. Thus their medical expenses must be considered. Ms. Kraft acknowledged that she did not obtain their medical expenses because she knew that they were over the gross income limit. Thus I will remand the case to continue processing the application and to allow petitioner to submit her uninsured medical expenses.

I note that even with the medical expenses petitioner might be over the \$1,226 net income limit (the limit will increase to \$1,261 effective October 1, 2012). However, not only will the medical expenses be counted, but their inclusion will impact the shelter deduction as well, so it is possible that the household will be eligible for at least some FS.

CONCLUSIONS OF LAW

The county worker erred by not obtaining petitioner's uninsured medical expenses to test income against the net income limit.

THEREFORE, it is

ORDERED

That the matter be remanded to the county with instructions to re-process petitioner's August 15, 2012 FS application by allowing petitioner to submit expenses so that income can be tested against the FS net income limit because the household contains elderly members. The county shall do so within 10 days of this decision, subject to any necessary delay required to obtain verification.

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 26th day of September, 2012

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

c: Brown County Human Services - email
Department of Health Services - email



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The preceding decision was sent to the following parties on September 26, 2012.

Brown County Human Services
Division of Health Care Access and Accountability