



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

FOO/143571

PRELIMINARY RECITALS

Pursuant to a petition filed August 31, 2012, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Oneida County Department of Social Services in regard to FoodShare benefits (FS), a telephone hearing was held on November 05, 2012, at Rhinelander, Wisconsin. At the time of the hearing, exhibits from the agency had not been received at DHA. This ALJ allowed exhibits to be submitted by the agency immediately following the hearing.

The issue for determination is whether petitioner's child's social security and child support should be counted as income for the FoodShare ("FS") food unit.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

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

By: Amy Mayo

Oneida County Department of Social Services
Oneida Avenue
PO Box 400
Rhinelander, WI 54501

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Oneida County.

2. Prior to June 2012, petitioner lived in a household with her minor daughter and received FS.
3. Unearned income into the food unit included \$736 of social security-disability to petitioner, \$270 in social security-surviving child to the daughter, and \$101.50 in child support on behalf of the daughter.
4. Petitioner's minor son had previously lived elsewhere but on or around June 8, 2012 came to live in the home with petitioner. The son receives \$270 per month is social security-surviving child and \$101.50 is paid in child support for the son.
5. The agency processed this additional income into the food unit. The agency sent a notice to petitioner informing her that effective September 1, 2012 her FS allotment would be reduced from \$349 to \$239.
6. Petitioner filed a timely appeal.

DISCUSSION

Petitioner filed this appeal because she did not understand why her FS allotment was reduced. The simple answer is that the addition of her son to the household meant that the unearned income attached to her son was then counted as income for the household. FS allotments are inversely related to the household's income, that is, as the household income goes up the FS allotment goes down. The agency correctly added the son's unearned income to the income of the food unit per *FoodShare Wisconsin Handbook* § 4.3.4.2 which requires the inclusion of gross social security and also child support payments.

With the unearned income attached to the son added to the other income stated in finding of fact #3 above, the total gross income for the food unit was \$1,479. From this was subtracted the standard FS deduction given to every household. A shelter deduction was also taken in the amount of \$377. This resulted in a net income of \$955. Under the rules of the program, specifically according to the *FoodShare Wisconsin Handbook*, Appendix 8.1.2 the correct allotment for a household of 3 with a net income of \$955 is \$239.

CONCLUSIONS OF LAW

The agency did not err in reducing the FS allotment to \$239.

THEREFORE, it is

ORDERED

That this appeal 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 served and 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, 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 8th day of November, 2012

John P. Tedesco
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 November 8, 2012.

Oneida County Department of Social Services
Division of Health Care Access and Accountability