



FH
[REDACTED]

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

In the Matter of

[REDACTED]

DECISION

FOO/143976

PRELIMINARY RECITALS

Pursuant to a petition filed September 19, 2012, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Juneau County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on November 02, 2012, at Mauston, Wisconsin.

The issue for determination is whether the Department erred in its reduction of petitioner's FoodShare (FS) allotment to 16 dollars effective October 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
Madison, Wisconsin 53703

By: April Lee

Juneau County Department of Human Services
Courthouse Annex
220 E. LaCrosse Street
Mauston, WI 53948

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Juneau County.
2. Petitioner was an ongoing FS beneficiary in 2011 and 2012 for her two person household.
3. From November 2011 until July 2012 petitioner's FS allotment was \$16 per month.

4. On July 18, petitioner reported that she lost her job.
5. In August and September 2012, petitioner's FS allotment increased to \$203.
6. On September 13, 2012, the Department processed information that petitioner was receiving \$159 in unemployment per week. This reduced her FS allotment. The Department sent a notice indicating the reduction to \$16 per month.
7. Petitioner filed a timely appeal.

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 was, at the relevant time of the agency action, \$142 per month for a three person household. 7 C.F.R. §273.9(d)(1); FoodShare Wisconsin 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); FoodShare Wisconsin 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); FoodShare Wisconsin Handbook, App. 4.6.4. A fourth deduction is for child/dependent care. 7 C.F.R. §273.9(d)(4); FoodShare Wisconsin 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); FoodShare Wisconsin Handbook, App. 4.6.7.

Petitioner did not dispute any of the calculations of the Department. The petitioner's argument was that she has extensive expenses and needs the increased FS to be maintained. The allotment is a function of the petitioner's household composition and gross income. Neither the Department nor I have discretion to increase a monthly allotment for a petitioner based on expressed need. In the absence of an error by the Department, I must affirm the action.

CONCLUSIONS OF LAW

The Department did not err in reducing the FS as the Department was responding to the increased in unearned income to petitioner. The Department cannot increase FS based on need.

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 7th 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 7, 2012.

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