



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

FOO/144202

PRELIMINARY RECITALS

Pursuant to a petition filed September 28, 2012, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Wood County Human Services - WI Rapids in regard to FoodShare benefits (FS), a hearing was held on November 05, 2012, at Wisconsin Rapids, Wisconsin.

The issue for determination is whether the Department erred in its inclusion of alimony payments paid by petitioner to her former spouse as part of gross income of petitioner for FoodShare purposes.

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: Irene Lehman

Wood County Human Services - WI Rapids
320 West Grand Avenue
PO Box 8095
Wisconsin Rapids, WI 54495 -8095

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Wood County.
2. Petitioner was an ongoing FoodShare recipient receiving a \$16 allotment since at least as far back as November 2011.

3. In September 2012, the Department determined that she paid \$594.50 to her former spouse as alimony. The payment is deducted automatically from her social security payments and disbursed to her former spouse.
4. The Department determined that this sum should be counted as part of gross income for purposes of FS allotment calculation.
5. On September 24, 2012, the Department sent petitioner notice indicating that FS would be terminated effective November 1, 2012.
6. Petitioner filed a timely appeal.

DISCUSSION

Petitioner has an alimony liability to her former spouse. Petitioner also receives social security unearned income. The alimony payment is automatically deducted from the SS payment. Petitioner never receives the money and does not disburse the funds to her former spouse. Petitioner receives the net SS payment with the sum already deducted. Petitioner's only argument in this matter is that because the funds are deducted before she gets the SS payment, and because the funds are an expense, the funds are not income.

The rules of the program require that the funds be counted as income attributable to petitioner. The *FoodShare Wisconsin Handbook* requires that gross social security payments be counted as unearned income. See *Foodshare Wisconsin Handbook* § 4.3.4.2. The program then allows for specific deductions and expenses to be subtracted from the total gross income of the food unit. See *Foodshare Wisconsin Handbook* § 4.6. None of the allowable deductions relate to alimony payments as petitioner makes to her former spouse.

CONCLUSIONS OF LAW

The Department did not err in its inclusion of the alimony payment from petitioner to her former spouse as part of petitioner's income for FS purposes.

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

David H. Schwarz
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on November 7, 2012.

Wood County Human Services - WI Rapids
Division of Health Care Access and Accountability