



FH
[REDACTED]

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

In the Matter of

[REDACTED]

DECISION

FOO/144810

PRELIMINARY RECITALS

Pursuant to a petition filed October 24, 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 November 27, 2012, at Madison, Wisconsin.

The issue for determination is whether the Department erred in its action to reduce petitioner's FoodShare based on a change in petitioner's finances, including medical expenses.

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: Eric Deml

Dane County Department of Human Services
1819 Aberg Avenue
Suite D
Madison, WI 53704-6343

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Dane County.
2. In or around September 2012, the Department conducted a periodic review of petitioner's FS case.

3. Part of the review considered medical expenses paid by petitioner.
4. By notice date September 7, 2012, the Department reduced petitioner's FS from \$82 to \$58 effective October 1, 2012.
5. Petitioner filed a timely appeal.

DISCUSSION

At the time of the hearing, petitioner asserted that the Department miscalculated her medical expenses and they were understated in the Department's calculation of her FS allotment. However, petitioner could not present substantive evidence detailing her expenses. She did not have an itemized list or any documentary verification of expenses.

Similarly, the Department was not prepared to itemize exactly what is had included, and the amounts, in its calculation.

The parties agreed to allow petitioner to gather her documents and provide an itemized listing of medical expenses along with documentary verification. The Department representative agreed to recalculate medical expenses and petitioner's proper monthly FS allotment based on the newly provided information.

CONCLUSIONS OF LAW

The Department has not established that it correctly calculated medical expenses.

THEREFORE, it is

ORDERED

That this matter is remanded to the Department and its county agent with instruction that:

1. The Department provide petitioner **10 days** following the date of this Decision to provide a list of purported medical expenses along with all verification documents. Those documents must be provided to Mr. Eric Deml at the Dane County Dept. of Human Services; and,
2. That the Department, within **20 days** of the date of this Decision, recalculate petitioner's medical expenses and redetermine her monthly FS allotment. New notice, with appeal right, must be sent to petitioner.

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 12th day of December, 2012

\sJohn 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 December 12, 2012.

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