



FH
[REDACTED]

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

In the Matter of

[REDACTED]

DECISION

FOO/145017

PRELIMINARY RECITALS

Pursuant to a petition filed November 02, 2012, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Brown County Human Services in regard to FoodShare benefits (FS), a telephonic hearing was held on November 27, 2012, at Green Bay, Wisconsin.

The issue for determination is whether the county agency correctly reduced the petitioner's FoodShare (FS) benefits effective November 1, 2012, due to the county agency error to not count petitioner's SSDI benefits as income during October, 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: Cookie Vercauterew, ESS
Brown County Human Services
Economic Support-2nd Floor
111 N. Jefferson St.
Green Bay, WI 54301

ADMINISTRATIVE LAW JUDGE:

Gary M. Wolkstein
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Brown County who receives FS benefits for a household of one.
2. The petitioner receives monthly Social Security Disability Income (SSDI) of \$922.

3. The petitioner has shelter expenses of \$350 per month, and a monthly \$10 deduction for child support.
4. During October, 2012, the county representative discovered that due the auto update system had inaccurately indicated that petitioner had not received SSDI income during September, 2012. As a result, petitioner incorrectly received an increase from \$89 to \$200 in his FS benefits for the month of October, 2012.
5. The county agency sent an October 15, 2012 Notice of Decision to the petitioner stating that effective November 1, 2012, his FS benefits would be reduced from \$200 to \$89 because the county agency was again correctly budgeting the petitioner's \$922 in SSDI unearned income in calculating his FS benefits.

DISCUSSION

In determining the amount of FS to be issued each month, the county must budget all income of the FS household, including all earned and unearned income. 7 C.F.R. §273.9(b). From the gross household income, certain deductions as discussed in the *FoodShare Wisconsin Handbook*, §4.6 are allowed: (1) standard deduction - which currently is \$134 per month for all households. 7 C.F.R. §273.9(d) (1); (2) earned income deduction - which equals 20% of the household's total earned income. 7 C.F.R. §273.9(d) (2); (3) medical expense deduction - for medical expenses exceeding \$35 in a month for an elderly or disabled person. 7 C.F.R. §273.9(d) (3); (4) dependent care deduction for child care expenses. 7 C.F.R. §273.9(d) (4); and (5) shelter expenses deduction - 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). The maximum FS allotment amounts, based on household size, are listed at *FoodShare Wisconsin Handbook*, §8.1.7. The *FS Handbook* can be viewed online at <http://www.emhandbooks.wi.gov/fsh/>.

During the November 27, 2012 hearing, the county representative provided petitioner a detailed explanation regarding the calculation of the November 1, 2012 reduction in his FS benefits. The ESS worker explained and documented that due to an error the petitioner's FS increased for the month of October, 2012, but such error was then corrected in calculating the petitioner's November, 2012 FS benefits. See Findings of Fact #4 and #5 above. The petitioner was unable to refute the county's case that it had correctly calculated the petitioner's FS benefits for November, 2012, and thus reduced his FS benefits. In reviewing the county agency's calculation of petitioner's November, 2012 FS benefits based upon FS policy and law, I find no error. Accordingly, for the above reasons, I conclude that the county agency correctly reduced the petitioner's FoodShare (FS) benefits from \$ 200 to \$89 effective November 1, 2012, due to the county agency error to not budget petitioner's SSDI as income during October, 2012.

CONCLUSIONS OF LAW

The county agency correctly reduced the petitioner's FoodShare (FS) benefits effective November 1, 2012, due to the county agency error to not count petitioner's SSDI benefits as income during October, 2012.

THEREFORE, it is

ORDERED

The petition for review herein be and the same is hereby 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 13th day of December, 2012

\sGary M. Wolkstein
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 December 13, 2012.

Brown County Human Services
Division of Health Care Access and Accountability