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[REDACTED]

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

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In the Matter of

[REDACTED]

DECISION

FOO/145661

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**PRELIMINARY RECITALS**

Pursuant to a petition filed December 3, 2012, under Wis. Admin. Code, §HA 3.03(1), to review a decision by the Milwaukee Enrollment Services to reduce FoodShare benefits (FS), a hearing was held on January 16, 2013, by telephone. A hearing set for December 26, 2012 was rescheduled at the petitioner's request.

The issue for determination is whether the agency correctly budgeted Wisconsin Works (W-2) payments.

**PARTIES IN INTEREST:**

Petitioner:

[REDACTED]

Respondent:

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

By: Katherine May  
Milwaukee Enrollment Services  
1220 W. Vliet St.  
Milwaukee, WI 53205

**ADMINISTRATIVE LAW JUDGE:**

Brian C. Schneider  
Division of Hearings and Appeals

**FINDINGS OF FACT**

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner receives FS for a three-person household that includes her 20-year-old daughter and grandchild. FS are based upon petitioner's social security and her daughter's W-2 payments.
3. In November, 2012, the agency budgeted \$468 W-2. For December the W-2 was increased to the regular monthly payment of \$653. Petitioner's daughter does not actually receive \$653 because of W-2 sanction reductions.

4. By a notice dated November 19, 2012, the agency informed petitioner that FS would be reduced from \$468 to \$310 effective December 1, 2012 due to the increase in W-2.

### 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 currently is \$149 per month. 7 C.F.R. §273.9(d)(1); FS 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); FS 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); FS Handbook, App. 4.6.4. A fourth deduction is for child/dependent care. 7 C.F.R. §273.9(d)(4); FS 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); FS Handbook, App. 4.6.7. The maximum shelter deduction is \$459 unless the household includes an elderly or disabled individual; in those cases there is no shelter cap. Handbook, App. 8.1.3. and 4.6.7.1.

The issue is the handling of the W-2 payments. Petitioner points out that her daughter does not receive \$653 in W-2 due to sanctions. They have been trying to get the sanctions correctly unsuccessfully. This office does not have authority over that issue, however. Petitioner's daughter would have to file for a fact -finding with the W-2 agency to address the issue.

The general rule for FS calculations is that income received in a month is used to calculate the FS allotment for that month. 7 C.F.R. §273.10(c)(2). However, there is an exception to that general rule: when a means-tested public benefit (such as W-2) is decreased due to a failure to comply with a requirement of the program that imposed the benefit decrease. 7 C.F.R. §273.11(j); FS Handbook, App. 7.1.1.7. In such a case, the amount of benefits the person was eligible for before the sanction is used to calculate the FS allotment, not the amount of benefits the person actually receives.

### CONCLUSIONS OF LAW

The agency correctly budgeted petitioner's daughter's full W-2 amount even though it was reduced due to sanctions.

**THEREFORE, it is**

**ORDERED**

That 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 18th day of January, 2013

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\sBrian C. Schneider  
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 January 18, 2013.

Milwaukee Enrollment Services  
Division of Health Care Access and Accountability