



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

FOO/145741

PRELIMINARY RECITALS

Pursuant to a petition filed December 05, 2012, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on January 03, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the agency properly reduced the Petitioner's monthly FS

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: Katherine May

Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. On November 20, 2012, the Petitioner ended Transitional FoodShare.
3. On November 21, 2012, the agency issued a Notice of Decision to the Petitioner informing her that effective December 1, 2012 Petitioner would receive \$184/month in FS benefits for a household of three. The Petitioner's income was based on an employment verification supplied

by her employer on November 17, 2012 indicating she is paid \$11/hour, 40 hours/week or \$1,892/month.

4. On December 6, 2012, the Petitioner submitted pay statements for the pay periods ending November 10 and November 24, 2012. The pay statements show the Petitioner was paid \$11/hour for 28.5 and 29 hours respectively. Gross income for the two pay periods was \$632.50. The agency processed the pay statements and determined FS benefits of January, 2013 of \$526/month.
5. On December 5, 2012, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

All reported changes that cause an increase in the FS benefit including person additions, increases in expenses, etc., will be effective the first of the month following the report month if required verifications are received within 10 days of the request for verification. FoodShare Handbook § 6.1.3.3, 7 CFR 273.12(c)(1).

The agency acted on the information available to it at the time it made the determination of benefits for December, 2012, specifically the employment verification. The agency issued a Notice of Decision to the Petitioner on November 21, 2012 based on that information. The Petitioner did not supply any information to show that the employment verification was incorrect until December 6, 2012. The agency testified that if the Petitioner had provided the information prior to December 1, 2012, the agency could have acted on it and re-determined her benefits.

The agency acted in accordance with its policy to process changes that will increase FS benefits to be effective the month following the change report. In this case, because the Petitioner reported a change on December 6, 2012, the agency properly re-determined her benefits effective January 1, 2013. She was not eligible for a change in benefits effective December 1, 2012 based on a change report made on December 6, 2012.

CONCLUSIONS OF LAW

The agency properly determined the Petitioner's FS benefits for December, 2012.

THEREFORE, it is

ORDERED

That the petition be, and hereby 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 Milwaukee,
Wisconsin, this 31st day of January, 2013

\sDebra Bursinger
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 31, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability