



FH
[REDACTED]

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

In the Matter of

[REDACTED]

DECISION

FOO/145884

PRELIMINARY RECITALS

Pursuant to a petition filed December 10, 2012, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Fond Du Lac County Department of Social Services in regard to FoodShare benefits (FS), a hearing was held on January 18, 2013, at Fond Du Lac, Wisconsin.

The issue for determination is whether respondent correctly calculated petitioner's FS benefit allotment.

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: Deb Bohlman

Fond Du Lac County Department of Social Services
87 Vincent Street
Fond Du Lac, WI 54935-4595

ADMINISTRATIVE LAW JUDGE:

Peter McCombs (telephonically)
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Fond Du Lac County.
2. Respondent relocated from Washington County to Fond Du Lac County approximately eight months prior to the date of the instant hearing.
3. Effective October 5, 2012, petitioner began receiving Unemployment Insurance benefits, resulting in averaged monthly unearned income of \$941.70.

4. Effective December 1, 2012, petitioner's FS benefits were reduced to \$16.00.

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 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 January 18, 2013, hearing, respondent provided petitioner a detailed explanation regarding the calculation of the December 1, 2012 reduction in his FS benefits, and concluded that the county is simply following FS law and policy. During that hearing, petitioner was unable to refute respondent's case that it had correctly re-calculated the petitioner's income for a FS household of one based upon now budgeting as unearned income the unreported UC benefits petitioner had been receiving since October, 2012.

At the time of the hearing in this matter, petitioner did not dispute that he indeed receives the unearned income attributed to him. Petitioner did not dispute any of the calculations by the Department about his case. An issue regarding petitioner's current rent was raised at hearing, as no amount of rent was attributed to petitioner since his move from Washington County. Respondent indicated that the newly provided rental information would be applied to petitioner's case, and would likely impact his February FS benefits. In any event, I do not find that petitioner's failure to provide rental information previously would constitute grounds for a finding that the respondent erred in calculating petitioner's December, 2012, and January, 2013 FS benefits.

In reviewing the county agency's calculation of petitioner's FS benefits based upon FS policy and law, I find no error. Accordingly, for the above reasons, I must conclude that respondent correctly reduced the petitioner's FS benefits effective December 1, 2012, due to an increase in petitioner's household's total unearned income (the budgeting of petitioner's Unemployment Compensation benefits).

CONCLUSIONS OF LAW

The Department did not err in reducing petitioner's FoodShare based on his unearned income.

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 4th day of February, 2013

\s\sPeter McCombs
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 February 4, 2013.

Fond Du Lac County Department of Social Services
Division of Health Care Access and Accountability



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