



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

FOO/145918

PRELIMINARY RECITALS

Pursuant to a petition filed December 14, 2012, under Wis. Admin. Code, §HA 3.03(1), to review a decision by the Portage County Dept. of Human Services to deny FoodShare benefits (FS), a hearing was held on January 17, 2013, by telephone.

The issue for determination is whether the county correctly determined petitioner's November, 2012 FS eligibility.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

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

By: Mandy Mayek
Portage County Dept. of Human Services
817 Whiting Avenue
Stevens Point, WI 54481-5292

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Portage County.
2. Petitioner applied for FS on October 4, 2012. An employer verification form was filed on October 19 showing that petitioner worked 36 hours per week at \$23.12 per hour. The income put the household over the FS limit.
3. Petitioner reported reduced hours in early November. Another employer verification form was received on November 13, again saying 36 hours per week at \$23.12 per hour. The form did not

mention that petitioner was off in November for family leave. Notices denying FS for October and November were sent on October 23 and November 9, 2012.

4. Petitioner filed a new FS application on November 27, 2012. The county used actual income for November and issued \$64 FS for the period beginning November 27, 2012. FS were reduced to \$17 beginning December 1, 2012.

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 \$160 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 \$469 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.

Petitioner filed this appeal because she believes that she should have received more FS in November. She testified that she told her worker that she would be taking off two weeks unpaid in November. The problem is that no verification was received confirming that statement. When FS were denied in October, the agency used the employer verification form provided. No mention was made of family leave.

Even if petitioner told the worker about her pending family leave, and the agency case notes do not mention the statement, the verification received November 13 again did not mention the family leave. Finally, on November 27, more than 30 days after the October 23 denial, petitioner reported that the November 13 employer verification form was wrong, so the worker took a new application and started FS effective that day.

I cannot conclude that the county erred. Until November 27 there was no verification that petitioner worked any less than normal in November. I must conclude that the county processed petitioner's applications correctly.

CONCLUSIONS OF LAW

The county processed petitioner's October, 2012 FS application correctly, and then correctly started FS with a new application effective November 27, 2012 because that was the first day that petitioner's lower income in November was reported and verified.

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 23rd day of January, 2013

\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 23, 2013.

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