



FH
[REDACTED]

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

In the Matter of

[REDACTED]

DECISION

FOO/145970

PRELIMINARY RECITALS

Pursuant to a petition filed December 13, 2012, under Wis. Admin. Code, §HA 3.03(1), to review a decision by the Portage County Dept. of Human Services in regard to FoodShare benefits (FS), a hearing was held on February 12, 2013, by telephone. A hearing set for January 17, 2012 was rescheduled at the petitioner's request.

The issue for determination is whether petitioner's income through AmeriCorps is exempt for FS purposes.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

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

By: Cathy McKorkell
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 30, 2012. She reported that she is working at Marshfield Clinic through the AmeriCorps state and national program, which is part of the Corporation for National and Community Service; the AmeriCorps position started before petitioner applied for

FS. The worker investigated and found that income from the work is not considered a wage but is a living allowance. Following FS policy the income was budgeted for FS purposes.

3. On December 12, 2012, the county determined that petitioner was eligible for FS but for only \$16 per month with the AmeriCorps income being budgeted.

DISCUSSION

The FS Handbook, Appendix 4.3.2.2, provides for disregards from income as follows:

6. Income from Title I of the Domestic Volunteers Services Act only when the volunteer received FS at the time s/he joined the Title I program. Interruptions in FS participation do not alter this disregard. Some individuals were receiving the disregard for a Title I program at the time of conversion to the Food Stamp Act of 1977. Continue the disregard for the same time frame they said they would volunteer for at the time of conversion. If these exceptions do not apply, count Title I income as earned income.

Title I programs include:

- a. AmeriCorps* VISTA
- b. University Year for Action
- c. Urban Crime Prevention Program.

That is the provision the agency reviewed in determining petitioner's eligibility. However, there is an additional disregard concerning AmeriCorps further down in Appendix 4.3.2.2:

11. Allowances, earnings, and payments to participants in the National & Community Service Trust Act of 1993 (NCTSA). Programs included in this act are:

AmeriCorps Network of Programs - The network of programs developed to engage Americans in a year or two of national service in exchange for an education award of \$4,725 per year of completed service

See number 6a in 4.3.2.2 above, to contrast with AmeriCorps*Vista which is different....

AmeriCorps programs include:

- Serve-America - The program involves school aged youth in community service, recruits adult volunteers in the schools, and provides service training in elementary and secondary schools.
- Higher Education Innovative Projects - Institutions of higher education integrate service into the curriculum, develop teacher and volunteer training programs, and involve students in community service.
- American Conservation and Youth Service Corps -Teenagers and young adults receive job and skill training, living allowances and scholarships as they provide community service. Special corps members, such as senior citizens, may be included if they provide special skills to the program.

- *National and Community Service Programs - Employees are age 17 or older and work full-time or part-time. They received education or housing benefits upon completing their term.*

Italics added. Number 11 provides that income from AmeriCorps National and Community Service programs is excluded regardless of whether the person was receiving FS when the work started.

CONCLUSIONS OF LAW

Petitioner's income from AmeriCorps is disregarded for FS purposes.

THEREFORE, it is

ORDERED

That the matter be remanded to the county with instructions to re- determine petitioner's FS retroactive to November 1, 2012 by excluding her income from her AmeriCorps service. The county shall take the action and issue appropriate supplemental FS within 10 days of this decision.

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 15th day of February, 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 February 15, 2013.

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