



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

FOO/146075

PRELIMINARY RECITALS

Pursuant to a petition filed December 20, 2012, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Milwaukee Enrollment Services in regard to FoodShare (FS) benefits, a telephone hearing was held on January 16, 2013.

The issue for determination is whether respondent correctly terminated petitioner's FS benefits effective January 1, 2013.

There appeared at that time the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

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

By: Sharon Thacker
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Peter McCombs
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County. Petitioner and her two children have received FS benefits since at least November, 2011.
2. On November 30, 2012, the respondent processed petitioner's Six Month Report form, wherein petitioner noted her employment with [REDACTED] An Employer Verification of Earnings Form

was received by respondent, which indicated that petitioner was a temporary employee earning an hourly rate of \$25.50 for 40 hours of work each week. The employer noted on the form that the position was temporary, and was slated to terminate on February 15, 2013.

3. The petitioner receives child support for her two children in the amount of \$370.78/month.
4. On December 13, 2012, the agency issued a Notice of Decision to the Petitioner indicating that her FS benefits would terminate effective January 1, 2013, on the grounds that her household income exceeds the program limit.
5. On December 20, 2012, the Petitioner filed an appeal with the Division of Hearings and Appeals.

DISCUSSION

As a general rule, applicants for FoodShare (FS) benefits are eligible to receive benefits provided they meet financial eligibility requirements. FS Wisconsin Handbook (FSH), §1.1.3. A threshold financial eligibility requirement is the gross income test. The gross income limit for most households is 200% of the Federal Poverty Level (FPL). Id., 4.2.1.1. The 200% FPL amount for a group of three is \$3,090.00. Id., §8.1.1. Income must be converted to a monthly amount. 7 Code of Federal Regulations, §273.10(c)2(i).

In determining the amount of FS to be issued each month, the county must budget all earned and unearned income of the FS household. 7 C.F.R. §273.9(b). This includes child support, Supplemental Security Income (SSI), SSDI, and W-2 payments received by household members. FoodShare Wisconsin Handbook, Appendix section 4.3.1.

Earned income is counted for the purpose of determining FS eligibility and allotments levels. FS Wisconsin Handbook, §4.3.2. Unearned income is also counted. Id., §4.3.4.1. A standard deduction of \$149.00 is applied to all household income for a household of 1 to 3 people. Id., §4.6.2. An earned income deduction equivalent to 20% of all earned income also applies here. Id., §4.6.3. These two items are deducted from gross income to arrive at adjusted household income. Shelter and utility expenses in excess of 50% of that adjusted household income is deducted. Id., §4.6.7. Also see 7 CFR 273.10 generally regarding budgeting calculations. Finally, the allotment applicable to a household is then reduced by 30% of the household’s net income. 7 CFR 273.10(e)(2)(ii)(A).

Thus, the allotment calculation conducted in accordance with the foregoing would be as follows:

Gross income	4756.78
Minus Earned Inc. Deduction	- 877.20 (20% of monthly earned income of \$4,080)
Minus Standard Deduction	<u>-149.00</u>
Adjusted Income	3730.58
Minus Shelter Deduction	<u>-000.00</u> (\$459 is the maximum)
Net Income	3730.58

The petitioner’s net income of \$3,730.58 exceeds the 100% FPL net income limit for a household of three people. 7 C.F.R. §§273.10(e)(2)(i); 273.9(a)2. The applicable 100% FPL for three is \$1,591.00. I have reviewed the calculations employed by the respondent, and have found no error. Therefore, the petitioner is entitled to no FS benefits as of January 1, 2013.

Petitioner argued that her job is only temporary, and that the respondent failed to consider this in determining to terminate her FS benefits. I am not aware of any provision in FS regulations that would allow for such consideration. While her present employment may be temporary, so too may her termination of FS benefits. The petitioner may re-apply for FS at any time if her income goes down. The

petitioner's concurrent appeal related to BadgerCare Plus will be discussed in a separate decision, as different rules apply.

CONCLUSIONS OF LAW

The agency correctly terminated the petitioner's FS benefits as her income exceeded program limits.

THEREFORE, it is ORDERED

That the petition 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 13th day of February, 2013

\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 13, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability