



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

FOO/146174

PRELIMINARY RECITALS

Pursuant to a petition filed December 26, 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 15, 2013, by telephone.

The issue for determination is whether the Department correctly reduced the petitioner's FS 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: Alma Lezama, HSPC Sr.
Milwaukee Enrollment Services
1220 W Vliet St
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Nancy J. Gagnon
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. The petitioner has an ongoing FS case as a household of one person. His November and December 2012 FS allotments were \$200 monthly (maximum for one person), based on zero income. On December 17, 2012, the Department issued written notice to the petitioner advising

that his FS allotment would decrease to \$16 monthly effective January 1, 2013. The basis for the decrease was increased income.

3. Prior to the December 17 notice, the Department learned that the petitioner had begun receiving Unemployment Compensation (UC) of \$997.60 per month. This income was budgeted for January 2013, forward, resulting in the \$16 allotment. The other relevant figures in that budget calculation were a \$442 utility cost standard, and child support being paid out of \$22.50. No rent cost was budgeted.
4. The agency later realized that the petitioner is paying \$193.50 in monthly child support. When the support payments were subtracted from his income, the result was that his January 2013 FS allotment increased to \$37.00.
5. The petitioner pays \$250 monthly in rent to his mother. He did not report this expense to the agency until the hearing date, January 15, 2013. The notice that was issued to the petitioner when his FS case opened (October 1, 2012) lists the household's major bills, and listed no rent amount. The petitioner did not contact the agency to correct the missing rent amount.

DISCUSSION

Now that the agency has correctly determined the petitioner's child support payment amount, his remaining objection to his allotment calculation is the failure to include his \$250 rent expense. However, the petitioner did not report this expense at application or thereafter, so the agency did not err in failing to deduct the rent expense from income for January 2013.

Upon report of a changed expense, the agency is to increase the allotment for the *next* month:

6.1.3.3 Changes That Cause an Increase in Benefits, Including Person Adds

7 CFR 273.12(c)(1)

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 Wisconsin Handbook, § 6.1.3.3, at <http://www.emhandbooks.wisconsin.gov/fsh/fsh.htm> .

CONCLUSIONS OF LAW

1. The agency correctly determined that the petitioner's January 2013 FS allotment is \$37.

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 4th day of February, 2013

\sNancy J. Gagnon
Administrative Law Judge
Division of Hearings and Appeals



State of Wisconsin\DIVISION OF HEARINGS AND APPEALS

David H. Schwarz
Suite 201
5005 University Avenue
Madison, WI 53705-5400

Telephone: (608) 266-3096
FAX: (608) 264-9885
email: DHAmail@wisconsin.gov
Internet: <http://dha.state.wi.us>

The preceding decision was sent to the following parties on February 4, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability