



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/146380

PRELIMINARY RECITALS

Pursuant to a petition filed January 4, 2013, under Wis. Admin. Code, §HA 3.03(1), to review a decision by the Northern IM Consortium to reduce FoodShare benefits (FS), a hearing was held on May 21, 2013, by telephone. The hearing was a rehearing granted by the Division of Hearings and Appeals on April 18, 2013.

The issue for determination is whether the agency correctly calculated FS after petitioner's social security increased.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Beulah Garcia
Northern IM Consortium
10610 Main St., Suite 224
Hayward, WI 54843

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Price County.
2. Petitioner received \$56 FS in December, 2012. Effective January 1, 2013, petitioner's social security, her only source of income, increased from \$765 to \$778. Because of the change petitioner's FS decreased to \$50 effective January 1, 2013.

3. Petitioner owns her home and has property taxes of \$48 per year. She was given the full utility allowance of \$442 per month.

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 \$149 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.

From petitioner's \$778 income the standard deduction is taken leaving \$629. The shelter deduction is the shelter cost above one-half of that amount (\$314.50). The shelter cost is \$442 plus \$4 monthly property tax equals \$446, so the shelter deduction is \$446 minus \$314.50 equals \$131.50. Thus net income on which FS is determined is \$629 minus \$131.50 equals \$497.50. A person with \$497.50 net income receives \$50 in FS. Handbook, App. 8.1.2.

Although petitioner believes that amount to be insufficient, the Division of Hearings and Appeals does not have authority to increase the monthly amount beyond the calculations described above. I thus must uphold the \$50 monthly allotments.

Petitioner should note that if she has out-of-pocket medical expenses she should report them to the agency and they could possibly provide a medical expense deduction in the calculation if they are above \$35 per month.

CONCLUSIONS OF LAW

The agency correctly determined petitioner's FS allotment when her social security increased.

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 May, 2013

\sBrian C. Schneider
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 May 23, 2013.

Wood County Human Services - WI Rapids
Division of Health Care Access and Accountability