



FH
[REDACTED]

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

In the Matter of

[REDACTED]

DECISION

FOO/146442

PRELIMINARY RECITALS

Pursuant to a petition filed January 07, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Washington County Department of Social Services in regard to FoodShare benefits (FS), a hearing was held on February 05, 2013, at West Bend, Wisconsin.

The issue for determination is whether the agency properly determined the Petitioner's FS benefits effective January, 2013.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

[REDACTED]

Respondent:

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

By: Ken Benedum

Washington County Department of Social Services
333 E. Washington Street
Suite 3100
West Bend, WI 53095

ADMINISTRATIVE LAW JUDGE:

Debra Bursinger
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Washington County.
2. On August 7, 2012, the Petitioner's case was updated based on Petitioner's report of new employment with Experience Works. The agency received employment verification that the

Petitioner was employed 20 hours/week at \$7.25/hour. Based on her earned income, the Petitioner had a MAPP premium of \$350/month.

3. On November 8, 2012, the Petitioner reported that her hours at Experience Works were reduced.
4. On November 15, 2012, the Petitioner paid a MAPP premium of \$350.
5. On November 29, 2012, the agency received verification of Petitioner's earned income for November, 2012. A pay statement from Experience Works for the period ending November 17, 2012 shows gross earned income for the week of \$76.10 (monthly income of \$304.40). The agency also received an employment verification from Joy's Grooming indicating earned income of \$20/month.
6. On December 13, 2012, the agency received a pay statement from the Petitioner for her employment at Experience Works for the period ending November 3, 2012 showing earned income of \$72.50.
7. The Petitioner has Social Security income of \$1,220/month effective January 1, 2013. Her monthly rent expense is \$450.
8. On December 19, 2012, the agency issued a Notice of Decision to the Petitioner informing her that effective January 1, 2013, her FS benefits would end due to failure to complete the FS renewal.
9. On December 20, 2012, the Petitioner completed the FS renewal.
10. For January, 2013, the Petitioner had excess medical expenses that included a Medical Assistance Premium of \$350 and a Medicare premium of \$104.90. For February, 2013, the Petitioner had excess medical expenses that included the Medicare premium of \$104.90. The Petitioner no longer had a MAPP premium due to the decrease in her income.
11. On January 7, 2013, the agency issued a Notice of Decision to the Petitioner confirming that she would receive FS benefits of \$123 for January, 2013 and \$16/month effective February 1, 2013.
12. On January 7, 2013, 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 two is \$2,452. Id., §8.1.1. Income must be converted to a monthly amount. 7 Code of Federal Regulations, §273.10(c)2(i).

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. The earned income deduction is 20%. 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).

The agency may use income received during the last 30 days as an indicator of the income that is and will be available to the household during the certification period, unless that income does not accurately reflect changes in income that have occurred or are anticipated to occur. The agency may also use

statements from employers or an employment verification form to verify prospective income. FSH § 1.2.4.2.

The Petitioner disputed her earned income as budgeted by the agency. Specifically, she noted that her earned income for January should be \$0 because she is no longer working for Experience Works and her employment at Joy's Grooming is a barter situation for which she receives no pay. I note that the agency budgeted a total of \$10 of earned income for January. The agency also budgeted \$1,324.90 in unearned income (\$1,220 from SS and \$104.90 Medicare premium). The agency applied an earned income deduction of \$2, a standard deduction of \$149, a shelter deduction of \$510 and an excess medical expense deduction of \$419.90 (\$350 MAPP premium, \$104.90 Medicare premium minus a \$35 standard medical deduction).

The Petitioner presented no documentation to support her testimony that Joy's Grooming is a barter situation. The agency relied on the employment verification from Joy's indicating that the Petitioner has earned income. The Petitioner did not previously report this change to her income. I reviewed the agency budget screen for January and find that the agency properly determined the Petitioner's FS benefits to be \$123 for January, 2013.

With regard to February, 2013, the only changes the agency budgeted were related to the Petitioner's MAPP premium and shelter expense. For February, the Petitioner did not have a MAPP premium due to the decrease in her income. Therefore, the \$350 premium that was included as an excess medical expense could no longer be included. For February, the agency budgeted \$10 in earned income, \$1,324.90 in unearned income, an earned income deduction of \$2, standard deduction of \$149, excess medical expense of \$69.90 (\$104.90 Medicare premium - \$35 medical deduction) and a shelter expense deduction of \$335. The shelter expense was affected because the deduction allowed for the shelter expense is based on adjusted income which changed due to the Petitioner no longer having the MAPP premium as part of excess medical expenses.

Based on the information provided and the testimony, I conclude that the agency properly budgeted the Petitioner's FS benefits effective February, 2013.

CONCLUSIONS OF LAW

The agency properly calculated the Petitioner's FS benefits for January, 2013 as \$123 and properly calculated FS benefits effective February 1, 2013 as \$16/month.

THEREFORE, it is

ORDERED

That the petition be, and hereby 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 Milwaukee,
Wisconsin, this 7th day of March, 2013

\sDebra Bursinger
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 March 7, 2013.

Washington County Department of Social Services
Division of Health Care Access and Accountability