



FH
[REDACTED]

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

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/147177

PRELIMINARY RECITALS

Pursuant to a petition filed February 05, 2013, under Wis. Admin. Code § HA 3.03(1), to review a decision by the Portage County Department of Human Services in regard to FoodShare benefits (FS), a hearing was held on April 09, 2013, at Stevens Point, Wisconsin.

The issue for determination is whether the Department erred in calculating a \$399 FoodShare allotment for petitioner's case for the month of February 2013.

There appeared at that time and place the following persons:

PARTIES IN INTEREST:

Petitioner:

Interpreter: [REDACTED] [REDACTED]

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Amanda Brooks

Portage County Department of Human Services
817 Whiting Avenue
Stevens Point, WI 54481-5292

ADMINISTRATIVE LAW JUDGE:

John P. Tedesco
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Portage County.
2. Petitioner is case head of a FS case including a food unit of seven persons.
3. The case received FS benefits since at least as far back as May 2012.

4. The Department budgeted earned income for petitioner for February in the amount of \$1,869.94 based on income information provided by petitioner in December 2012. The Department also budgeted \$891.68 unearned income (\$710 supplemental security income and the remaining amount in unemployment).
5. On January 3, 2012, the Department calculated the allotment for February. On February 14, 2013, the Department sent a notice indicating that the FS allotment effective February 1, 2013 would be \$399.
6. Petitioner filed a timely appeal from this notice.

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 was, at the relevant time of the agency action, \$142 per month for a three person household. 7 C.F.R. §273.9(d)(1); FoodShare Wisconsin 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); FoodShare Wisconsin 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); FoodShare Wisconsin Handbook, App. 4.6.4. A fourth deduction is for child/dependent care. 7 C.F.R. §273.9(d)(4); FoodShare Wisconsin 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); FoodShare Wisconsin Handbook, App. 4.6.7.

Petitioner did not dispute the income set forth in finding of fact number 4. The gross income limit for a household of seven prior to the latest release of the FS Handbook on as of February 2013 was \$5,822. See *FS Handbook* §§ 4.2.1, 8.1.1. The net income limit for a household of seven was \$2,911. *FS Handbook*, App. 8.1.1.

Petitioner's household income is below the gross income limit. This is clear from the testimony & exhibits. The representative from the Department stated so during the hearing. Thus, she is categorically eligible for FS. After the earned income deduction (\$373.98) and the standard deduction (\$214 - there is no excess shelter deduction) petitioner's net income was \$2,173.64. See budget screen in exhibit #3. According to FS Handbook 8.1.2, the FS allotment for a 7-person household with a net income over \$2,174 was \$399. I cannot find an error in the calculations of the Department.

Petitioner asserted several arguments that suggested she did not understand why there was a change in the allotment during the months of December 2012 and January and February 2013. She expressed frustration that her allotment changes and wished to have, at the time of the hearing, some statement or confirmation of the amount of FS she would receive today and in the future. But, the petitioner must realize that her allotment will vary with any variation in her monthly income. I understand that there was fluctuation in her FS. Petitioner received \$436 per month in November and December 2012. She received \$237 in January 2013. There was then the change to \$399 for the month of February 2013. The Department explained that these changes were related to changes in the supplemental security income during those months. There is also apparently fluctuation in earned income and unemployment income. As this appeal is only from the notice of the change effective February 1, 2013, I do not need to analyze whether every fluctuation in December and January is correct. But, I have analyzed the pertinent data for the month of February and do not find any error.

CONCLUSIONS OF LAW

The Department did not err in determining the February 2013 allotment to be \$399.

THEREFORE, it is

ORDERED

That this appeal 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 19th day of April, 2013

\sJohn P. Tedesco
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 April 19, 2013.

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