



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]

DECISION

FOO/147379

PRELIMINARY RECITALS

Pursuant to a petition filed February 14, 2013, 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 March 14, 2013, at Milwaukee, Wisconsin.

The issue for determination is whether the Department correctly reduced the petitioner's FS allotment to \$413 effective March 1, 2013, due to budgeting of additional income.

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: 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 had an ongoing FS case prior to March 2013, as a household of three persons (self and 2 children). From July 2012 through January 2013, the household received a monthly FS

allotment of \$418. The household income consists of the petitioner's \$793.78 in SSI plus \$400 in Caretaker Supplement (CTS) benefits.

3. The petitioner's CTS case was reviewed in January 2012. Completion of the review was delayed, awaiting the petitioner's completion and return of a review "signature page." Because the review was not completed before the calculation cutoff for the petitioner's February FS, the Department's computer concluded that the petitioner was not going to receive the \$400 CTS benefit from February onward, and it deleted that \$400 from her FS budgeting calculation. As a result, income of only \$793.78 was budgeted for the petitioner's FS for February, and she was issued an increased allotment of \$526.
4. After the petitioner's CTS review signature page was received, the Department restored her CTS benefit. By January 28, the Department added the \$400 CTS income back in to the FS calculations, beginning with March 1, 2013.
5. On January 28, 2012, the Department issued written notice to the petitioner advising that her FS would be reduced from \$526 to \$413 effective March 1, 2013. The basis for reduction was increased unearned income. Exhibit 1-C. The petitioner timely appealed.
6. The petitioner has a rent expense of \$750. She does not pay out child support, does not incur a dependent care expense to go to work, and had not verified excess medical expenses before the date of hearing.

DISCUSSION

The petitioner questions the correctness of the calculation of the FS allotment amount for March 2013, onward. The gross income was based on the petitioner's computer-verified SSI and CTS benefit amounts. There is no dispute as to the income amounts or the agency's arithmetic. The budgeting calculations here were performed prospectively. Prospective budgeting should reflect what the petitioner is likely to receive, on average, each month. *FS Wisconsin Handbook (FSWH)*, 4.1.1, viewable online at www.emhandbooks.wisconsin.gov/fsh/.

In calculating the petitioner's March allotment, the agency must follow a procedure prescribed by the federal FS regulations, and echoed in the Department's *FS Wisconsin Handbook*. The federal rule requires that the county start with gross, rather than net, income, and allow only a limited number of identified deductions from that income. *FSWH*, 1.1.4. The regulations direct that a Standard Deduction be subtracted from income in all FS cases. 7 C.F.R. §273.9(d)(1). The Standard Deduction for a case with one to three persons is currently set at \$149, per *FS Wisconsin Handbook*, 8.1.3. Twenty percent of any earned income is then subtracted as the Earned Income Deduction; that deduction was correctly not given here. A Dependent Care Deduction is also taken if the petitioner incurred day care expenses in order to go to work, an Excess Medical Expense Deduction is subtracted for an elderly or disabled person's allowable medical expenses that exceed \$35 per month, and child support paid out garners a deduction. There is no record of the latter three expenses here. 7 C.F.R. §273.9(d)(3). An Excess Shelter Deduction can be subtracted from the income after deductions if allowable shelter expenses exceed half of that income. 7 C.F.R. §273.9(d)(6)(ii). Based on a \$750 shelter cost plus the \$442 heating utility standard, the petitioner's shelter costs totaled \$1,192. This did exceed half of the adjusted income (\$522.39), so a \$669.61 excess shelter cost was deducted in the allotment calculation.

Thus, the March 2013 allotment calculation correctly looked like this:

Gross income	1193.78
Minus Earned Inc. Deduction	- 00.00
Minus Excess Medical	-000.00
Minus Dependent Care	-000.00
Minus Standard Deduction	<u>-149.00</u>
Adjusted Income	1044.78
Minus Shelter Deduction	<u>- 669.61</u>
Net Income	375.17

The correct allotment for three persons with net income of \$375.17 was \$413 in March 2013. *FS Wisconsin Handbook*, 8.1.2, p.15.

CONCLUSIONS OF LAW

1. The Department correctly determined the petitioner’s FS allotment for March, 2013.

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 19th day of March, 2013

\sNancy J. Gagnon
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 19, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability