



FH
[REDACTED]

STATE OF WISCONSIN
Division of Hearings and Appeals

In the Matter of

[REDACTED]
[REDACTED]
[REDACTED]

DECISION

FOO/147965

PRELIMINARY RECITALS

Pursuant to a petition filed March 12, 2013, under Wis. Admin. Code, §HA 3.03(1), to review a decision by Milwaukee Enrollment Services in regard to FoodShare benefits (FS), a hearing was held on April 10, 2013, by telephone.

The issue for determination is whether the agency correctly determined petitioner's FS allotment.

PARTIES IN INTEREST:

Petitioner:

[REDACTED]
[REDACTED]
[REDACTED]

Respondent:

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

By: Alma Lezama
Milwaukee Enrollment Services
1220 W. Vliet St.
Milwaukee, WI 53205

ADMINISTRATIVE LAW JUDGE:

Brian C. Schneider
Division of Hearings and Appeals

FINDINGS OF FACT

1. Petitioner (CARES # [REDACTED]) is a resident of Milwaukee County.
2. Petitioner had a review in February, 2013. She reported two jobs. Verification was received for both jobs. The agency initially budgeted income from petitioner's on-call job at [REDACTED] and [REDACTED] as \$136 each week, and the household was issued \$121 in FS for March. However, the agency then received a verification form from [REDACTED] saying that petitioner worked five hours per week. The agency then changed the weekly amount at [REDACTED] to \$81 based upon the new

verification, and determined that the household was eligible for \$207 FS. An \$86 supplement was issued for March.

3. At the hearing petitioner reported that she has not worked at [REDACTED] since February. However, at this point no verification of the reduced hours has been filed.

DISCUSSION

FS allotments are based upon a household’s prospective income, meaning that the agency must estimate the household’s income for the month in which FS are to be received. FS Handbook, Appendix 4.1.1. Income from the past 30 days typically is used to make the estimate, but if income fluctuates, the worker must determine a monthly average using prior months’ income. 7 C.F.R. §273.10(c)(1) and (2); Handbook, App. 1.2.4.2.

In this case the agency used the income amounts that were verified. Petitioner asks that March and April FS be recalculated because she did not actually earn any income from [REDACTED], but the agency can use only the figures that are reported and verified. There is no reconciliation in the state’s FS system to recalculate FS for a month based upon a report that actual income was less than budgeted. Petitioner needs to report that her income at [REDACTED] has been reduced and have [REDACTED] verify that she currently has no income there. If she starts working there again she can report that change, but I cannot find that March and April FS were incorrect because petitioner did not earn the income that was reported and verified.

CONCLUSIONS OF LAW

The agency issued correct FS for March and April, 2013 based upon the income that reported and verified.

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 11th day of April, 2013

\sBrian C. Schneider
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 11, 2013.

Milwaukee Enrollment Services
Division of Health Care Access and Accountability